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TESTIMONY OF JAMES H. BURNLEY IV

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

TO RECEIVE TESTIMONY FROM JAMES H. BURNLEY IV, SECRETARY-DESIGNATE, DEPARTMENT OF TRANSPORTATION

NOVEMBER 19, 1987

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TESTIMONY OF JAMES H. BURNLEY IV

THURSDAY, NOVEMBER 19, 1987

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10:34 a.m., in room 406, Dirksen Senate Office Building, Hon. Quentin N. Burdick (chairman of the committee) presiding.

Present: Senators Burdick, Moynihan, Lautenberg, Reid, Graham, Stafford, Chafee, Symms, and Durenberger.

OPENING STATEMENT OF HON. QUENTIN N. BURDICK, U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

Senator BURDICK. The committee will come to order.

We are meeting this morning to hear the views of Jim Burnley, Deputy Secretary of the Department of Transportation and current Acting Secretary of Transportation, with respect to the Federal-aid highway program and the Federal Highway Administration within the Department of Transportation. The views of Mr. Burnley are of interest to members of this committee, because it has jurisdiction over the highway program and because that program represents approximately half of all spending on Federal transportation programs.

The committee, of course, recognizes the jurisdiction of the Commerce, Science, and Transportation Committee in reporting the nomination to the Senate. The Commerce Committee held a hearing with Mr. Burnley and we very much appreciate the Secretary-designate meeting with this Committee today to discuss highway and related transportation issues.

While it is a relatively new cabinet position, the role of the Transportation Secretary has taken on great importance. Certainly, aviation safety has become a matter of critical concern to all of us and is an issue that must weigh heavily on the nominee in his role as Acting Secretary.

National transportation policy has also been a matter with which Mr. Burnley has been very involved. As Deputy Secretary, he has been active in the sale of Conrail, trucking deregulation, and economic deregulation of the airlines. These are all matters that have a major impact on the economy and affect our ability to move about freely and safely.

The focus of the hearing today is on the Federal Highway Administration and the Federal-aid highway program. We are interested in learning about the nominee's experience with the highway program and about his plans for the forthcoming year.

We know that he supported the Administration's veto of the 1987 highway bill. However, as a loyal, dedicated member of the Administration, it is expected that he would take that role. Now that the bill has been passed over the veto, I would expect that Mr. Burnley will accept that decision and vigorously implement the legislation. I look forward to his testimony in that regard.

If confirmed, one of Mr. Burnley's duties will be to participate in the selection of a new Federal Highway Administrator to replace Mr. Ray Barnhart who has announced his resignation effective at the end of the year. Consequently, one of the early decisions to be made by the new Secretary is of particular importance to this committee.

We will have a new Secretary and a new Administrator to implement the Surface Transportation and Uniform Relocation Assistance Act of 1987 which was just enacted April 2 of this year. The nominee before us has been with the Department of Transportation since early 1983, initially as General Counsel and, since November of 1983, as Deputy Secretary of DOT. Therefore, if confirmed, he would provide a continuity of experience at the Department.

Let me digress at this point to pay a tribute to the former Secretary, Elizabeth Hanford Dole. I am hopeful that the committee will be able to maintain the same productive and cordial relationship with Mr. Burnley as we did with Mrs. Dole.

If the new Federal Highway Administrator is someone with Federal-aid highway program experience, there could be a continuity at that level of DOT also. In any event, we look forward to a new Administrator with whom we can work closely and in harmony.

I have heard comments suggesting that appointments made near the last year of an administration are of reduced significance. I disagree with that assessment. While this present Administration will only be in office for another year, I think it is very important in terms of implementing the new highway legislation. I expect the new Secretary and the new Federal Highway Administrator to have a very active year.

It is a pleasure to welcome Mr. Burnley. I look forward to hearing his testimony.

I yield to my colleague, Mr. Stafford.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. Thank you, Mr. Chairman.

Mr. Burnley, I want to join my colleagues in welcoming you to the committee today. I appreciate your willingness to come before this committee and endure some of our questions.

The Committee on Environment and Public Works has jurisdiction over funding for the Federal-aid highway program which does have an annual budget of over $13 billion. The highway program affects every State, city, and county in this country. It is a program with far-reaching effects on mobility, on the environment, on neighborhoods, and on economic development to name just a few things.

As you no doubt already know, it is a program that gets a lot of attention.

Congress recently reauthorized the Federal-aid highway program for 5 years through fiscal year 1991. The Department of Transportation and you as Secretary will play a very important role in implementing that legislation. I am not planning to be in the Senate in 1991 for the next reauthorization of the highway program, but I can say I will be home and probably offering my free advice as to what could be done to my former colleagues down here.

After following the program for many years, I have some concerns about the program I would like to leave with you. First, as necessary as highways are, they have a tremendous impact on the environment and on our neighborhoods. I believe in the future we must be even more concerned about preserving our wetlands, clean air, clean water, park lands, farm lands, and historic landmarks. These are limited resources that must be carefully guarded.

Second, the Federal-aid highway program has often been cited as a Federal program which has worked well. It has worked well because State and local officials have made the decisions on which projects have priority for funding.

The 1987 Highway Act was something of a dramatic departure from that principle. I am concerned about the future of the highway program when a law is enacted with over 150 demonstration projects. These projects constrain the regular program, particularly during a time of serious budget deficits.

I would like to comment on two other issues that have long been of special interest to me.

I believe the regulation of billboards belongs at the State and local level, but as long as there is a Federal program, there should be a vigorous, even-handed enforcement of that program. I have appreciated the support of your predecessor, Secretary Dole—and I certainly join in what the chairman of this committee has just said about Elizabeth Dole—for much needed reforms to the program. I also commend you for your view that what constitutes a taking is to be left to State law.

Finally, I believe the Department of Transportation was also wise in providing the States with flexibility in evaluating the safety of their roads for the reasonable access of large trucks. Interstate commerce is important, but it must be balanced with the safety of all motorists and with the reasonable protection of the investment which has been made in highway facilities.

Mr. Burnley, it is a pleasure to have you here. I look forward to hearing from you, and I look forward to working with you as you assume this important new job.

Thank you, Mr. Chairman.

Senator BURDICK. Senator Moynihan?

OPENING STATEMENT OF HON. DANIEL PARTICK MOYNIHAN, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator MOYNIHAN. Mr. Chairman, we welcome Mr. Burnley to our committee. He has been thoughtful in calling on me as I know he has called on other Members. I look forward to his statement, and then I have a few specific questions.

Welcome, sir.

May I just make one remark? The comment has been made that there is only 1 year left of this Administration. I think you very wisely suggested that can be a time in which initiatives begin to grow in an agency that may not develop for many years later. Come to think of it, there is only 1 year left in my administration, either. We all of us live with these arrangements under a democratic system, and 12 months can be a long time.

Senator BURDICK. Senator Symms?

OPENING STATEMENT OF HON. STEVE SYMMS, U.S. SENATOR FROM THE STATE OF IDAHO

Senator SYMMS. Thank you very much, Mr. Chairman, and welcome to the committee this morning, Mr. Burnley.

I understand congratulations are in order, because I have just been told that the Commerce Committee has voted out Mr. Burnley's nomination with the recommendation that it do pass by a unanimous vote. That is what I was told. So, congratulations.

I would just say that I think, as my colleagues have said, the Federal-aid highway program is one that we are greatly interested in on this committee, and it is of tremendous economic and social importance to the country. I have said many times I don't know of another program that Federal and State governments participate in and use our tax dollars for other than the security and preservation of peace and freedom in the country that is more important to people in terms of their own personal mobility and freedom than the Federal-aid highway program and how it relates to the individual States.

I will look forward to working with you on that, and I will have some questions for you dealing with gasoline taxes, the speed limit, and the trust fund and how we should look at it. However, I wish you the best, and I think that, as Senator Moynihan says, this is the time to get some initiatives started and continue on with the program that has really gone on since 1959.

I think there is room for improvement in it. I think personally that the Federal Government has continued to continually try to involve itself more and more, and it is a trend that we should try to get away from in the program and use it more as a methodology of collecting money and funding roads and let the States have the big say in how they use the money.

Thank you very much.

Senator BURDICK. Senator Lautenberg?

OPENING STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator LAUTENBERG. Thank you, Mr. Chairman.

Welcome, Mr. Burnley.

You and I had a chance for a tete-a-tete one day on TV, and it wasn't as cozy and friendly as I assume our future relationship is going to be, and I indicated in public that I thought we had reviewed our past differences and came to the conclusion that we would both work very hard in the interest of transportation in our country.

With 1 year to go, we haven't the time for a lengthy confirmation hearing. You obviously have significant qualifications, and we want you to do well in this task.

We have discussed differences. We are now, Mr. Burnley, you and I and those with whom you will be working, on a track to get this job done. The transportation issue is one that affects all parts of the country. There is no place that I know of unless it is some sleepy hollow somewhere that says we have no problems with our transportation and highways are great and aviation is great and, ho hum, we don't need a train. That is not anyplace in this world, and thank goodness it is not, because it would indicate that we are going in the wrong direction.

We wear several hats, all of us. As you know, one of my other roles is chairman of the Transportation Subcommittee of the Appropriations Committee. It is a major position in terms of transportation, and I take that responsibility very seriously.

Through that subcommittee, I intend to pursue my interest in a safer aviation system. I want to see the FAA do its job better, and I know that you share my interest in that. You want to make the system—as all of us do—operate more safely, particularly as we have the memory of the recent tragedies so fresh in our minds.

So, I intend to keep working to improve the margin of safety in our skies, but air safety is outside the jurisdiction of this committee.

The Department has a great responsibility to provide our country with an adequate system of roads and highways, and it is essential to maintaining and encouraging economic growth. In States like mine and New York and some of the other busy States, we are choking on traffic. We need better roads. We also need better transit.

We are not talking about frivolous spending. We are talking about an investment in our infrastructure and in the future, not only of those regions, but of this country.

I hope, Mr. Burnley, that we are going to be able to count on you to work with States like New Jersey and New York and the others to help us relieve some of the traffic problems.

There is one specific highway issue I would like to discuss today, and that is motor carrier access. It is a subject of great concern to my constituents at home in New Jersey. They are concerned that in a rush to help truckers do their job, we may be taking some short cuts in safety reviews. I really don't want to see that happen, and I hope that you don't.

Section 158 of the Surface Transportation Act required DOT to enter into a contract for study with the National Academy of Sciences' Transportation Research Board. That study, among other things, is to look at truck access. It is an area of great concern that is timely, because the action taken by the House in their transportation appropriations bill included report language that would bypass what I feel was the intent of section 158.

I think it would have the Department issue regulations to expand truck access without the benefit of the study and without an adequate review of safety.

The Senate responded to this. We included language that would direct the Department to expedite the study but to wait for the re-

sults of that study before implementing any new rules. I think that is only fair.

So, I don't want to let those big rigs rumble and roll down serene suburban streets. We need to have the benefit of that study. We need to take a close look at how heavy truck traffic would impact our communities, and I am hoping that we will have your cooperation on that.

Thank you, Mr. Burnley.

Mr. Chairman, thank you very much.

Senator BURDICK. Senator Reid?

Senator REID. Thank you, Mr. Chairman.

I have a number of questions, and I will wait for my turn. If, for some reason I am unable to ask questions here, I would like to be able to submit the questions in writing and have the opportunity to go over the answers prior to the vote taking place.

I feel, Mr. Burnley, that your job is extremely important. I think for this country and for the State of Nevada, the next 14 months of your life is going to be very important to the people of the State of Nevada.

I acknowledge what was said by the Senator from Vermont whom I have learned has so much wisdom to share with us that this next period of time does not have to be a period of time when we hear of the lame duck. This is a time when you can really get things done, because we are looking for some leaders in this period of time.

I do have some questions that relate specifically to issues that are important in Nevada and, Mr. Chairman, I look forward to sharing these questions and answers with the rest of the committee.

Thank you.

Senator BURDICK. Since many members of the committee may have questions for Mr. Burnley this morning, without objection, the Chair would like to proceed under the 5-minute rule.

Also, let me say to Mr. Burnley that even though you have been at the Department for several years, there may still be some questions you would prefer to respond to in writing. There may be some followup questions from members after the hearing has concluded. The committee would ask you to supply written answers to those as expeditiously as possible.

Mr. BURNLEY. I would be happy to.

Senator BURDICK. With that understanding, let me proceed with a question or two in my allotted time.

There continues to be more highway needs than available funding at all levels of government and all regions of the country. As the interstate system nears completion, what changes do you think should be considered, first, in determining highway needs at a national level and, second, funding in the Federal-aid highway program?

Mr. BURNLEY. Mr. Chairman, I had a brief opening statement. If I may, I would like to just submit it for the record and go straight to the questions.

Senator BURDICK. Without objection, so ordered.

Mr. BURNLEY. I share Senator Stafford's sense of some relief that I detected in his opening statement that I too will not be in this

position either as Acting or Deputy Secretary or Secretary, if confirmed, in 1991 and will have the luxury of being a free advisor to the person who is and to the Congress at that time. I also believe that, although we do not face reauthorization again until 1991, particularly as we approach the completion of the interstate highway system, it is important that we start now to discuss, debate, and consider how to meet these enormous needs that you have referred to in your question and other Members of the committee have mentioned in their opening statements.

I believe that the Federal Government has demonstrated, particularly since the interstate program began in the late 1950's, that it has the ability to collect the revenues efficiently. While there is always room for improvement in efficiency in management of any bureaucracy or part of the government, we nonetheless have a very good track record on the efficient administration of the highway program with reasonable overhead expenses and nothing excessive in that regard.

I think that one of the very clear opportunities we have as we talk about the future of the highway program in this country is to look at some of the issues Senator Symms mentioned in his opening statement about how we might better structure the relationship between the Federal Government and the State governments.

Over the last 30 years since the Federal program began to focus on the interstate system, State departments of transportation, however denominated, have become much more sophisticated. I think that there are a number of exercises that go on routinely now at the Federal level that probably, upon review and reflection, could be eliminated. Then, in fact, it might be possible to dramatically reduce the time it takes, and the paper flow it takes, to send the money to the States and get the work started.

So, if I am confirmed, I would hope to spend the next year working with you and the other members of this committee and the Congress who are interested in these very important programs, looking at those issues and beginning to frame the issues so that, as we approach reauthorization, that debate is very well advanced.

I think, in particular, we have to look at the rural side of our national needs. One of the frustrations I know that you share with me is that we have so many categorical programs today it is very difficult to have a State identify its road needs, its priorities, and then be able to come to Washington and say here is what we want to spend our money on. The moment they get to Washington, they find this panoply of restrictions and processes. It just makes it a much tougher process for State government to be able to take the money that does come through Federal highway taxes and put those funds where they are most needed.

Senator BURDICK. Thank you.

My own State of North Dakota is currently de-mapping some local roads because State and local funding is so limited. Those roads are not eligible for Federal funding. Many other rural States are in the same fix. The problem is compounded with the elimination of many railroad branch lines and the discontinuation of general revenue sharing.

What solution do you see in the rural highway and bridge problems?

Mr. BURNLEY. Well, sir, as I mentioned a moment ago, I think the solution needs to be, in the long term, finding opportunities to give the States more flexibility so they can establish the priority road needs in that State.

And let me be very clear. I don't mean to suggest that I don't believe in an interstate highway system or the need for a Federal presence. I do believe that the Federal Government has an affirmative obligation to maintain this really fantastic interstate highway system that we are just now completing.

However, I do think that having made sure we are meeting those needs in years to come, we must be sure that the States can set their own priorities and that the funds, however collected, can be spent on the real needs in the State. So, in the longer term, I think that is the direction we need to go in over the next year or so. All I can assure you is that I will be sympathetic to seeking opportunities for us to be more flexible in how funds are distributed.

Recently, as a result of an inquiry from Senator Chafee, I was able to work with our folks and make sure that on the combined road program that was created by the 1987 Act, that we were displaying some flexibility in how that program is administered.

Senator BURDICK. Senator Stafford?

Senator STAFFORD. Thank you, Mr. Chairman.

Mr. Chairman, I note that the Secretary-designate has a statement of his own. I don't think he has had an opportunity to deliver it, and I am going to yield my 5 minutes to him to deliver that statement.

Mr. BURNLEY. Well, sir, you are most kind. I would be perfectly happy just to submit it for the record and use the time answering your questions, if you would prefer. Frankly, my staff would be pleased if I do that, because otherwise we will have to do them in writing.

Senator STAFFORD. All right.

Mr. Chairman, I would then move that the Secretary-designate's statement be made a part of the record.

Senator BURDICK. Without objection, so ordered.

Mr. BURNLEY. Thank you, sir.

If I may just impose for a moment, I would like to introduce my wife, Jane, who is sitting right here behind me who administers the Victims of Crime program at the Department of Justice. I have assured her I will try not to add anyone to the list this morning or get added myself.

Senator STAFFORD. Very good.

I notice that you graduated from Yale magna cum laude.

Mr. BURNLEY. Yes, sir.

Senator STAFFORD. Noting that reminds me that my own graduation from Middlebury was, I think, magna mirabile dictu. If you remember any Latin at all, the free translation would be "much to everybody's surprise."

There is a strong possibility that additional cuts may be made in the highway program in this fiscal year and possibly the next one as a result either of the so-called summit conference on reductions in the Federal deficit or as a result of a sequester under Gramm-Rudman. Assuming that might happen and might impose anywhere from a 7 or 8 percent cut in the overall funds of the highway

department, what impact do you think that might have, Mr. Burnley, on the highway program?

Mr. BURNLEY. Senator, it would certainly slow down both the rehabilitation of our existing roads and the building of new ones. I would share, I am sure, the regret of everyone on this committee were that to happen.

There are much broader fiscal issues there that the Congress and the executive branch are wrestling with, even as we speak, in these negotiations on the budget. I think the only consensus we can expect, if there is an agreement, is that everybody is unhappy about the impact on particular programs.

All I can say to you is that we will, on the one hand, administer in good faith what cuts we are ordered to administer and, on the other hand, do all we can to minimize the impact and to make sure that work continues out in the field to the extent possible.

Senator STAFFORD. Chairman Burdick and I share a concern for small States, obviously. Where do you see the priorities of the Federal-aid highway program falling within the total transportation program?

Mr. BURNLEY. Well, sir, with the passage of the Act this spring, we have once again as a country reasserted the critical importance of the highway program—as Chairman Burdick said in his opening statement. It is half the budget that we administer at the Department, roughly.

I think it is easy to lose sight sometimes in the give and take of the debate of the moment on particular parts of a legislative package, of some of the underlying agreements. I am quite certain that happened last spring. The issue there that ultimately we had a disagreement on—between the executive branch and the Congress—it seems to me, was an issue that was a very important issue, but it was a marginal issue. There was no disagreement, and there is certainly none now, about the fundamental importance of the Federal highway program.

It also seems to me that once the legislative process has worked its will, whatever that will may be, those of us in the executive branch who administer programs have an affirmative obligation to administer whatever legislation we receive from you in good faith. I have made very clear, as Secretary Dole had from the moment that bill became law, both as Deputy and then as Acting Secretary that I don't have any tolerance for game playing. I will not countenance attempts to evade the will of Congress.

I certainly reserve the right for us to come back to you and ask for changes and amendments but day-to-day, it is our responsibility to take the legislation you send us and make it work.

Senator STAFFORD. Thank you, Mr. Burnley. We have several additional questions we would like to submit to you in writing under the unanimous consent the chairman got, so we will proceed with the rest of our questions in that way.

Mr. BURNLEY. Certainly, Senator.

Senator STAFFORD. Thank you, Mr. Chairman.

Senator BURDICK. Senator Moynihan?

Senator MOYNIHAN. Mr. Burnley, I would like to take note of the passage in your testimony which speaks of your interest in exploring new technologies such as very high speed rail systems and su-

perconductivity. As you know, these are matters of great interest to this committee, especially to Senator Graham and to the Subcommittee on Water Resources, Transportation, and Infrastructure.

It is our particular feeling that there is not a more appropriate moment than the time when we have in effect passed the last legislation that will put in place the interstate highway program which is the world's largest public works project in history. We will have finished that, and we will have pretty much begun to sense the limits of air transport as we clog the limited spaces over major cities.

This is an appropriate time, therefore, to look to some new forms of transportation. We have been in the process of perfecting very early systems. The automobile is a 19th century machine that was pretty well developed by 1910. There have been marginal changes since.

Highways were well understood before that, and they are now as many highways as we are going to have.

The railroads are an early 19th century machine, and they get better, marginally. They got worse, and now they are getting better. However, getting that last bit of mileage out of an engine that was put together in Britain in the 1820's is interesting but not very interesting.

The question of energy use is real. I would say Senator Graham might be interested in this. I was out in San Diego not long ago speaking and visited the Navy fleet there and went aboard one of the new aegis cruisers, the Valley Forge. I must say this to Senator Stafford whom I know would also be interested, the new aegis class cruisers are powered by four DC-10 turbines. The engine room looks like the operating theater in the College of Physicians and Surgeons.

It takes three of those things to take 160-pound people from New York to Chicago and four of them will run a battle cruiser at 30 knots. It is obvious we have much too much power involved in transporting people considering the thrust required to get that thing up in the air and down again.

It is pretty clear to me that magnetic levitation is a technology we have to move to. We can think of 350-mile-per-hour speeds which is faster than the effective speed of air transportation on the eastern corridor and many corridors like Florida.

It is an American technology. An MIT professor developed it. What we have been talking about in subcommittee hearings is, are we going to get ourselves into that British condition of developing the science and technology and letting other people do the manufacturing? Because there is going to be a magnetic levitation rail system in the United States. It is going to be in Las Vegas, and the Japanese are going to build it.

Now, your Department, sir, had jurisdiction over the development of this technology and then you dropped out in the mid-1970's—before you were there, obviously. What do you know and what do you plan?

Because here is something interesting. I mean, you can tinker with the interstate highway program until the 12 months is gone, or you can leave behind something that will develop in 10 or 15 years as a new event.

Mr. BURNLEY. Senator Moynihan, when we visited in your office a couple of weeks ago, we had a chance to discuss this, and you made the point then that you just made about the fact that when you reflect upon transportation technology, magnetic levitation in rail use is really a quantum leap forward and that it is also an Americna leap forward in terms of the original work on the technology.

I was very struck by that. I went back and studied your legislative proposal in this area which I think is an excellent beginning to the discussion of how the Federal Government can most constructively play a role in the development of this technology. Obviously, with the kind of budget constraints we are all operating under, there will always be those kinds of concerns.

However, when Secretary Dole and I arrived at the Department in early 1983, after being there a few months, I discovered that the Department's research and development council that is made up of the leadership from all the different operating administrations had really fallen into disuse for some years. The Secretary did not have a science advisor as had been true in the early 1970's.

Senator MOYNIHAN. Yes, and neither does this committee, may I say.

Mr. BURNLEY. Secretary Dole and I chatted about that and agreed it was a problem. Then I played a very active role in implementing a decision to, one, resurrect and reinvigorate the R&D council in the Department and, two, get a science advisor. In fact, we are now, with Dr. Fred Singer, extremely well equipped, a highly——

Senator MOYNIHAN. Is that right?

Mr. BURNLEY. Yes. He is a highly experienced physics professor from the faculty of the University of Virginia.

Senator MOYNIHAN. I congratulate you. Can I just interrupt?

Mr. BURNLEY. Yes, sir.

Senator MOYNIHAN. When did that happen?

Mr. BURNLEY. Well, sir, we had a gentleman who was his predecessor who was with the Department from, I guess, late 1983 or early 1984 until earlier this year when he returned to the private sector. Dr. Singer has been with us now for 6 or 8 months and is also a Deputy Administrator of RSPA.

Senator MOYNIHAN. Would you give him my regards and say this committee expects him to call upon people.

Mr. BURNLEY. I will send him around forthwith. Yes, sir.

However, I relate this to you because I do think you are right that there are some opportunities here, and I don't want to see the United States miss those opportunities. I think that the work that then-Governor and now Senator Graham was involved in in Florida has created some opportunities. Certainly, on the West Coast, as well, you have a great deal of interest in this technology.

So, I think where we can be most constructive in the next year as a Department is making sure that, one, we are paying attention and we are devoting some time and energy to beginning to understand what these opportunities are and focusing attention on them; and, two, that we are making certain that the Federal Government is not an impediment in any way to the development of this technology; and, three, that we are working with you and the other

Members who care about these issues on ways in which we can come to grips with the funding issue.

It is not that this country can't afford it. The country can afford it, in my judgment. The question is how we are going to afford it.

I could not agree more that the technology is coming. There will be a good deal of pulling and tugging, I am sure, before the first long distance system is in place, but I pledge to you our interest and our desire to be very actively involved in these discussions.

Senator MOYNIHAN. Good, and have Dr. Singer come up. All right?

Mr. BURNLEY. I will send him around.

Senator MOYNIHAN. I guess Fred Singer and I have known each other 37 years.

Senator LAUTENBERG. I know about 10.

Senator MOYNIHAN. The other thing is to note that in terms of rights of way, it would probably be impossible to construct the right of way in the areas where you need them, by definition. But we have them in the interstate system, as Senator Graham has pointed out.

Well, that is very encouraging. Let's use this time. All these ideas get started and the investment is very small. The science has been done, and the engineering is doable. It is just as clear as that. The issue is whether we are going to be the ones to show that this can be done outside the confines of an amusement park, that it can be transportation, or others do, and that will be a big event.

The first airplane flew in this country, and that is the last form of transportation technology. This is the next. If the next one appears in France or Japan, note that. History will note it.

Mr. BURNLEY. Yes, sir.

Senator MOYNIHAN. Sir, I have two other matters.

On the question of the obligation authority lost that has now been worked up at 8 percent, you and I have talked about it. I would like to hear you tell me in writing—not now—that this will be a 1-year phenomenon and that you will see that the effects of the one-time redistribution are taken into account when the next allocation is made. That is so, is it not?

Mr. BURNLEY. Yes, that is correct, Senator, and we will provide a full written answer on that.

Senator MOYNIHAN. Will you do that, and I have a specific question about the Maritime Administration. I would appreciate it if you would answer that, too.

Mr. BURNLEY. I would be happy to. (See p. 46.)

Senator MOYNIHAN. Thank you, Mr. Burnley.

Mr. BURNLEY. Thank you.

Senator BURDICK. Senator Symms?

Senator SYMMS. Thank you very much, Mr. Chairman.

I will try to be brief, Mr. Burnley. I have three quick questions I would like to ask you to hear your views on. The first one, I think, will be very brief.

Mr. Chairman, I would just ask unanimous consent that a letter I have from Senators McConnell and Nickles be made a part of the record at this point, and I will just read the one paragraph.

It says:

As you are aware, there are thousands of miles of four-lane highways and turnpikes that do not qualify for the speed limit change. These happen to be among the safest roads in the country. The current situation has confused many drivers and frustrated law enforcement officials because it has been assumed that on all four-lane highways the speed limit is 65. Drivers switching from an interstate to a non-interstate four-lane highway are often not aware the speed limit has changed.

[The letter referred to follows:]

80-467 0 - 88 - 2

DON NICKLES
OKLAHOMA

COMMITTEES
APPROPRIATIONS
BUDGET
ENERGY AND NATURAL RESOURCES

United States Senate

WASHINGTON, DC 20510

November 19, 1987

The Honorable Steve Symms
United States Senate
Washington, D.C. 20510

Dear Steve:

As you know, President Reagan's choice to head the Department of Transportation, James Burnley, will soon be appearing before the Senate Commerce, Science and Transportation Committee.

On our behalf we would appreciate your asking Mr. Burnley a question relating to his stand on the 55mph speed limit issue, as it pertains to four lane, interstate-type highways.

As you are aware, there are thousands of miles of four lane highways and turnpikes that do not qualify for the speed limit change. These happen to be among the safest roads in the country. The current situation has confused many drivers and frustrated law enforcement officials because it has been assumed that on all four lane highways the speed limit is 65. Drivers switching from an interstate to a non-interstate four lane highway are often not aware that the speed limit has changed.

As you know, attached to the Senate appropriations bill for the Department of Transportation is language to correct this situation by giving the Secretary of Transportation some discretion in determining which non-interstates meet interstate standards and allowing the states the authority to raise the speed limit to 65 on rural portions of these highways. With this information in mind, our question for Mr. Burnley is on the following page.

We appreciate your assistance in this matter.

Sincerely,

MITCH McCONNELL
U.S. Senator

DON NICKLES
U.S. Senator

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Senator SYMMS. The Senate appropriation bill has a provision in it which would safely allow for the increased speed limit of 65 miles per hour on non-interstate highways which met interstate standards as determined by the Secretary of Transportation. I wonder if you would look upon that either favorably or unfavorably as Secretary.

Mr. BURNLEY. Senator Symms, if I had my druthers, I would have had you ask that when Senator Lautenberg was in the back.

I certainly support the position that the President took in his letter of August 15, 1986 that we should return more flexibility to the States as to speed limits. If you send legislation to the executive branch, I would not recommend, on that issue alone, that there be a veto.

However, I think it is terribly important that we be very mindful of what the impact is of the changes that were made in the Act you passed earlier this year, the Reauthorization Act. If I am confirmed, I certainly intend over the next year to be sure that we are watching very carefully what the safety impact is of having raised the limit on the roads that are affected and, if these roads you mentioned are added, on those roads as well.

To date, frankly, we don't know. The evidence is very fragmentary, and we just can't tell yet.

However, I do think it is important that we return flexibility to the States as you have done with the 1987 Reauthorization Act. These roads that are affected by this amendment, as I understand it, are roads that are built to the same engineering standards and the same restricted access standards as the interstate highway system.

So, I don't think it is a policy question. It is a definitional one, and I don't think the system should run, frankly, on definitional issues one way or the other.

So, I hope we will be able to see as a result of the changes you made earlier this year and what further changes you make, if any, that the States have been able, in their law enforcement patterns, to make sure that we have had no increase in fatalities. I would just say to you that I am watching that very closely and will not hesitate to speak up one way or the other as we see what the data is as it develops.

Senator SYMMS. Thank you.

As you are aware, there is a big summit conference going on right now with respect to the Federal budget and the deficit. There has been an idea floated to raise gasoline taxes to help put money in the general fund to reduce the deficit.

As an advocate for transportation in the Administration, would you oppose that internally, and if you did decide to oppose it, would you speak up and be a real advocate against it? I personally think it would devastate the Federal highway program and highways in general.

Mr. BURNLEY. Senator Symms, I have a somewhat awkward situation. As Senator Lautenberg noted earlier, I am not yet confirmed and I am the Acting Secretary at the moment as well as a permanent sworn-in Deputy. As the Acting Secretary, those processes inside the executive branch are processes I am deeply involved in.

I have already made my views known in writing on this issue inside the executive branch, and it is really not appropriate for me to lay them out at this point, but I will say this much.

I think it is terribly important that if that occurs as a result of these agreements, that we take into account the effect on the trucking industry and the bus industry. We are going to have a very disproportionate impact on them if there is a substantial increase in gasoline taxes however those revenues are applied.

I have certainly not hesitated in public as well as in private to say that we better understand what those impacts are going to be, because nobody intends for us to do serious damage to either of those industries. This is a revenue raising discussion, and I have made it my business to be sure that whatever the outcome of those discussions that there is an understanding of what the impacts could be on those industries.

I would hope that if you in the Congress and we in the executive branch end up going in that direction—and my understanding of where the discussions are going is that this is now a more academic question than it may have seemed a couple weeks ago—but if we head in that direction, I can assure you that I will make every effort in dealing with the Congress and within the executive branch as well, to be sure that we understand those impacts on those two industries and that we mitigate them. Again, I don't think anybody would intend to do serious damage to either one of them when we are attempting to solve a different problem.

Senator SYMMS. Well, in other words, let me just put the question this way. Personally, do you think that tampering with the gasoline taxes which heretofore have always been dedicated to bridges and roads and transportation systems is a lousy idea to talk about using gasoline taxes for deficit reduction?

Mr. BURNLEY. Senator, you have to give me a little running room here.

Let me just say this. I am a genuine believer, personally, as well as in an official capacity, in the principle of user fees. If you use it, I think you ought to pay for it to the extent reasonably possible. Then I think you also have an expectation, once you have paid those user fees, that they will be applied to whatever it was you were using.

Senator SYMMS. Well, that just leads me into my last question. That is somewhat helpful.

Several years ago with the Administration's support, the Social Security trust fund was removed from the unified Federal budget, and the President was quite outspoken on this matter. Now, the Social Security trust fund has been financed by dedicated taxes and, therefore, was viewed as different from other general fund programs.

Recently, however, the Administration and specifically the Department of Transportation have resisted the congressional efforts to take the highway trust fund out of the Federal unified budget. Since the highway trust fund is supported solely by user fees and is therefore self-funded and not part of the problem because we are actually spending, I think, $.5 billion less on highways and bridges in the country than we are taxing the people who are being told

that they are paying those taxes to pay for the roads and bridges, and we are accumulating this balance in the trust fund.

Would you still continue to look unfavorably upon moving the highway trust fund off-budget, or do you think that there might be room to have the Administration support that effort? To de-politicize the highway program is what I would like to see happen.

Mr. BURNLEY. I would be quite surprised if the Administration position between now and the end of the Administration were to change on that. I think it is important to be sure we don't have accounting issues obscure substantive issues.

It is not an insignificant issue. But I think it is an accounting issue—an important accounting issue. So long as we have a consolidated Federal budget, as you know, the Administration's general position has been, and I suspect will remain, that you should look at the impact of Federal revenue and expenditure flows in a consolidated way to the extent you can do that under existing law.

Now, I think it is important also to note that while we have a balance, as I understand it, of roughly $13 billion in the highway trust fund today, that we have outstanding commitments of roughly $34 billion. So, while there is a balance, on the other hand, there are a lot of bills that will come due.

If we were to suspend the collection of Federal highway taxes today, we would in not very many years' time have a very serious problem with all the needs that we have already committed to that we wouldn't be able to meet.

So, I think it is important to keep the balance——

Senator SYMMS. I am talking about the issue of setting it off-budget to de-politicize it so we don't end up in these political fights of whether or not we are going to continue to have a sustained highway program.

Mr. BURNLEY. Well, sir, I think if we could de-politicize it by going in a little different direction, I would be more comfortable with it. By that I mean simply, as I think you suggested at the beginning of the hearing in your statement, looking for ways in which we reduce the involvement of the Federal executive branch in day-to-day decision making by the States about what their needs are. That might get us closer to de-politicizing it.

All I can say to you on this whole issue, though, is that, while I don't expect a change in Administration position, at the same time as I suggested before, I believe quite strongly and am not the least bit hesitant to say that we should be sure that the funds that are collected through that trust fund mechanism are used on the needs that they are intended for. That, I think, is the most help I can offer on that for now.

Senator SYMMS. Thank you.

Thank you, Mr. Chairman.

Senator BURDICK. Senator Lautenberg?

Senator LAUTENBERG. Thank you, Mr. Chairman.

Mr. Burnley, if you can handle that delicate balance between the Senator from Idaho's interest and mine, do you think it is a lousy idea to stop political fighting?

Our mission here is not to make peace; it is to make progress, and we like to do that.

By the way, just to note an event of some historical significance, assuming that Mr. Burnley's confirmation goes through as smoothly as it did through the committee, he will be the youngest Secretary of Transportation ever and perhaps second or third youngest cabinet Secretary ever. We congratulate you for that and also remind you of the responsibility that particular milestone carries. We do look forward to working with you.

I want to just for a couple minutes focus on the thing I talked about in my opening statement. By the way, I had a chance to read yours, and I thought it was a good statement.

Mr. BURNLEY. Thank you.

Senator LAUTENBERG. The Department is aware of the directives of section 158. Part of that calls for a study by the Transportation Research Board. Has the Department now entered into a contract for that study?

Mr. BURNLEY. Yes, sir, we have. On September 30, we signed a contract with the National Academy of Sciences.

Senator LAUTENBERG. Do you think that the study completion is warranted before allowing expanded truck access?

Mr. BURNLEY. Senator Lautenberg, the study is an important undertaking but I don't, on the other hand, see the issue before us as a question of expanded access. If I may take a moment, let me explain why I say that.

In the 1982 Act which became law in early 1983, the Congress enacted an arrangement, an agreement as it were, which recognized that the trucking industry was going to be paying higher taxes with a nickel per gallon increase, and thus provided the industry some productivity gains through expanded access at that time. We have tried to be mindful of the States' very legitimate interest on the safety side of the equation while, in good faith, administering the instructions you gave us in that Act that have been substantially renewed now.

As I understand it, looking back over where we have come on this issue, I have found that we have really about six States where this is still a live issue, as it were, and they tend to be in the Northeast and in the mid-Atlantic corridor where you have some serious real world safety concerns. So, I am going to encourage the Federal Highway Administration leadership to make sure that we continue to be mindful of both sides of that equation—the productivity gains that were promised to the industry now some five years ago, and the very legitimate need to be sure that safety issues are fully and satisfactorily addressed.

Now, I don't mean to dance around this.

Senator LAUTENBERG. You are doing good so far.

Mr. BURNLEY. Well, you asked me a straightforward question, and I just wanted to set it in context, if I might.

What I would like to say to you is that on the one hand, I will be back in touch with you and the other Members of the committee who care about this issue before we do anything, if we go forward, and I mean that most sincerely. On the other hand, I am hesitant to say that under no circumstances should we do anything for a full two-year period even though I recognize that study is going to be a useful undertaking.

I would like, if I may, to reserve the opportunity to come back to you short of the two years—and we are only talking about my tenure being about half that period of time—and say to you here is where I think we are and where we ought to go and get your thoughts on it before doing anything.

Senator LAUTENBERG. First of all, it is highly likely that if you like this job enough and you bet on the right horse, you might continue in this job past 1988.

Senator CHAFEE. Is that a prediction on the presidential election?

Senator LAUTENBERG. Yes, but I didn't pick the horse. We know there are enough horses out there in the race.

Mr. BURNLEY. I am staying out of this.

Senator LAUTENBERG. The question that arises in my mind is, first, it doesn't have to take 30 months. We can do it in a shorter period of time, and I think that is appropriate knowing the interests of the trucking industry and the importance of the trucking industry.

On the other hand, I am sure you would agree with me that safety has to be the foremost concern.

Mr. BURNLEY. Yes, sir.

Senator LAUTENBERG. In evaluating any changes in trucking access. It is a matter of great concern that changes in truck access and heavy truck traffic on minor roads could be a significant jeopardy to safety. Therefore, I would like to get a commitment that the Department is going to carry out the mandate of section 158 as echoed in the Senate appropriations bill and let's try not to create any unusual delays but to get the study done to really see what the impact of changing access might be. I would like your pledge of cooperation on that.

Mr. BURNLEY. Senator, you have an absolute pledge of cooperation. We signed a contract with the National Academy of Sciences, and they are a separate, independent entity. We have done a lot of business with them in the almost 5 years I have been at the Department, and we don't have—even though we are the contractor—absolute control over timing with them. We have found that out.

So, I certainly share your view that it doesn't have to take 30 months or 2 years. It could be done more quickly than that, but, again, I would like to promise to stay in very close touch with you on this, and there will be no surprises. We will not be moving on this without having full consultation.

To the extent we can get the results of the study in, even on an interim basis before anything happens, that would be helpful. So, we will encourage them to get it done.

Senator LAUTENBERG. Okay, because the Transportation Research Board has told the committee staff that the study could be done in about 18 months. Therefore, I am hoping that we won't see any change in the rules before we get that study done.

Mr. Chairman, I thank you for the opportunity to raise the questions and I yield the floor back.

Senator BURDICK. Senator Reid?

Senator REID. Thank you, Mr. Chairman.

I am sorry that Senator Moynihan isn't here, but I hope his staff will report to him. He, of course, knows that we are doing a lot with the train in the corridor between Los Angeles and Las Vegas,

and there may even be one built prior to that time within the Las Vegas area.

But the one thing I wanted to relate to him is the sad part about this. Even though it was developed at MIT, all the work is being done in West Germany and Japan. We are not doing any of it in this country, and that is a sad thing.

I have a number of questions that I would like to ask, and I will be as quick as possible. Part of it is a statement.

In your opening statement that I read, you mentioned repair and maintenance of the Nation's highways, and we spent a lot of time on that today, but you also mentioned "and bridges." That is critically important.

As we know, our bridges are in a state of disrepair in this country, and I point that out because we will be spending some time with you during this next year because the University of Nevada at Reno has an on-going program for bridge engineering that we will be interested in visiting with you about.

Mr. BURNLEY. All right, sir.

Senator REID. What I wanted to spend a minute of the committee's time on this morning is your responsibility in assuring that there is safe transportation across our highways, and that includes the transportation of toxic substances, and I am particularly concerned about nuclear waste which is certainly a toxic substance.

We know that there are some areas—and we have spent a lot of time on the Senate floor recently talking about transportation of nuclear waste—that there are critical points in our highway system that now for transporting high level toxic substances, not nuclear waste, are critical points, and there are a number of them around the country. One is Hoover Dam. You know there is no way around Hoover Dam. You have to go over Hoover Dam.

Even though there has been authorized for several years now monies to build another bridge across the dam area, that is not being done. For those of us who have been across that bridge, it is a very, very dangerous place to be driving big trucks that are hauling toxic substances.

That is something we have to address ourselves to. And if you take a point like the Eisenhower Tunnel that is near Denver, there is no way around the Eisenhower Tunnel that is safe, because in the winter time, which is a lot of time in the Denver area, it represents safety hazards.

So, I want to direct your attention to a safe means, if in fact there is one, of transporting nuclear waste, and I want to know if you personally have spent, in your capacity at the Department of Transportation, any of your time in dealing with the transportation of toxic substances and/or nuclear waste.

Mr. BURNLEY. Yes, I have.

Senator REID. Well, we won't take the committee's time at this time, but after you are confirmed—which I am sure you will be—I would like to invite you to my office and we will spend a little time with your staff to maybe alleviate some of the fears that the people of Nevada have. So, would you arrange that after you have settled down in your job after the first of the year?

Mr. BURNLEY. I would be happy to do that. Let me just say that I don't believe we have sent a formal views letter to the committee

on the pending legislation that addresses this issue that several of the members, I think including yourself, have co-sponsored to address the nuclear issue in particular. While we may have concerns about this or that provision, there are many parts of that bill we are comfortable with. I think there are some real opportunities there for us to work together.

Senator REID. I look forward to working with you.

Mr. BURNLEY. Thank you, and vice versa.

Senator REID. Thank you, Mr. Chairman.

Senator BURDICK. Senator Durenberger?

Senator DURENBERGER. Mr. Chairman, thank you.

Mr. Secretary, I will operate on the theory that you will only be around for 1 year rather than 5 years. It would be nice if it could be 5 years, so I won't try to solve the user fee philosophical problems.

I was just listening to the President talk to the U.S. Chamber of Commerce on deficits and so forth. He told this little joke that he has told before about when the Federal Government gets involved in things how it wastes money, and his favorite joke is when we decided that stop signs on highways ought to be seven feet above the surface, and the Federal Government said if you are going to use Federal money to accomplish that, you have to drop highways by two feet rather than raising the signs.

Given that and given what your predecessors and you, I think, have already said about devolution, it strikes me for one that you aren't going to do any devolution in the next year and a half because the President needs all the money in the trust fund to help balance the Federal budget.

So, my question of you is, if that is the case, to what degree can you contribute to the non-expenditure of funds out of the trust fund? What discretion do you have in the Department to see that monies authorized to be expended by the States are not expended over the next year?

Mr. BURNLEY. Senator, I don't have any discretion if I understand the question you are asking me about. The Congress has authorized, the Congress will appropriate, and we will expend.

As I said earlier, it has been my view since I came to the Federal Government in 1981 that once the legislative debate has ended and the law has been passed, it is the responsibility of those of us who are administrators, of one sort or another, to administer in good faith. Now, if you tell us, as a result of an agreement on the budget, to slow down expenditures, we will slow them down. To the extent that you tell us to keep the money flowing in the pipeline, I will do my best to keep it flowing.

What I can do over the next few months is make sure that games are not played. You give us the instructions, and my promise to you is simply that I will do everything I reasonably can in a Department of 100,000 people to keep the other 99,999 focused on what they are supposed to be doing which is administering the programs as you have set them up.

Senator DURENBERGER. In terms of the emphasis on safety which I see in several places in your statement——

Mr. BURNLEY. Yes, sir.

Senator DURENBERGER. You say safety continues to be the first priority, and even in the highway section, you are talking about the interstate system and the primary and secondary system also has an investment in the safety of millions of travelers.

Where is the current emphasis within the Department of Transportation on the highway side on safety and what is being invested?

Mr. BURNLEY. All right, sir. It obviously has several dimensions, and I will be brief in describing them. First and foremost, of course, the very existence of the highway program has made an enormous difference in this country on the safety of automobile travel. We have designed an interstate highway system that has a very good record in terms of reducing fatalities in inter-city travel.

Additionally, right now, we are very actively engaged in implementing the 1984 and 1986 Acts concerning truck safety. In the months to come, that is going to be the centerpiece of our focus on highway safety on the Federal Highway Administration side of day-to-day responsibilities, that is continuing to push very hard to get those Acts fully implemented. Particularly the 1984 Act which gave us an enormous number of assignments. It is very complex, very resource intensive.

We are not in compliance with the legislative time schedule. All I can say in defense of the Department is that we said back in 1984 it would be virtually impossible to do everything as quickly as we would all like to do it, but we are pushing hard on both Acts. On the 1986 Act, we are on schedule.

The other area of substantial importance is on the NHTSA side of the Department where we do the automobile safety standard regulatory work. There are quite a few exercises there, and we are in the midst right now of implementing the passive restraint rule that Secretary Dole issued in 1984. I was very deeply involved in the drafting of that rule and in its promulgation.

As you know, Secretary Dole focused very heavily on safety in all aspects of transportation. She is very proud and I am very proud of that exercise in particular, because after two decades of very impassioned debate, we got an outcome that we think has worked to the enormous net advantage of the American people, and it is saving lives. We have encouraged the passage of State seat belt laws, and, beginning September 1, 25 percent of all the cars sold in this country have to have passive restraint systems of one kind or another. It rises to 40 percent next year and 100 percent thereafter.

There will be a lot of time and energy devoted over the next year or so to highway safety issues.

Senator DURENBERGER. In addition to the two specific areas that you have mentioned, are there some that might be pets of your own that we haven't heard of yet and we have to consider supporting over the next year?

Mr. BURNLEY. Well, sir, having been there 4½ years, I don't have a lot of rabbits to whip out of the hat that you haven't seen before. Certainly, as I mentioned, standard 208, which is the passive restraint rule, is something that I do have a lot of emotional investment in to make sure that it is fully implemented as it was issued.

As I said earlier, I think it is terribly important as we are developing some experience and some data with the change in speed

limits and the return of some authority to the States—and I said earlier I support the President's policies in that regard—that we follow that closely and that we share with you and the country what is happening with respect to the speed limit change.

To date, the data is just too fragmented for us to have any sort of intelligent opinion on that. In terms of issues on which I am going to spend a lot of time, you are going to see Burnley personally and the Department more generally, if I am confirmed, following that issue with particular interest.

I think we can provide some leadership, particularly on the technical assistance side regarding law enforcement patterns. While we have no business dictating in that area, we can provide guidance and share information.

Beyond that, again, I have—both because the laws are on the books and we have to implement them but also because it is a terribly important area—a strong personal interest in the motor carrier safety issue. I think there are some very exciting opportunities there.

The technology is evolving in ways that give us a chance to act—but we have to do it with care. The Department, historically, has gotten a little ahead of the technology curve regarding heavy truck safety in the past, as you know, but there are things that are happening now, for example, on antilock brakes. There is also the possibility of being able to use new technology in lieu of driver logs which have been a source of tremendous paperwork requirements and also, I think, of imperfect recording of drivers' duty hours.

I want to spend some time on those issues, because I think the Department—again, without taking necessarily a heavy-handed approach—can, through what we are already doing, through encouraging the development of this technology, funding pilot studies, demonstration projects, and working with the industry, make some real headway on those issues in the months to come.

Senator DURENBERGER. Thank you very much.

Thank you, Mr. Chairman.

Senator BURDICK. Senator Chafee?

Senator CHAFEE. Thank you, Mr. Chairman.

I want to say that any man who attended Yale College and then went to Harvard Law School I think is eminently qualified for most any position in the country.

Mr. BURNLEY. All I can say, Senator Chafee, is that the chairman has promised not to hold that against me.

Senator CHAFEE. Well, I think it gives you a leg up in any position you seek.

Senator BURDICK. If he had gone to Minnesota, he would have had two legs up.

Senator CHAFEE. I would like to ask you about a provision in the highway bill that was passed earlier this year that had what we called a combined road plan demonstration project. Some five States were included in that as the States that would be selected, and Rhode Island has been selected, so I am personally interested in it.

This legislation would permit you, DOT, to combine money from several programs, bridge funds, interstate transfer funds, and give them to the States as a block grant. The purpose of this is to dem-

onstrate the feasibility of turning over greater responsibility to the State officials for administering the highway program.

How is that coming? I would be interested in hearing your views on it.

Mr. BURNLEY. Senator, as you and I have discussed, there was an initial problem because of an interpretation out in the field. A signal was sent to the five States involved that you couldn't take the three accounts that may be consolidated under the 1987 Act and use those funds in conjunction with other funds that previously had been available under predecessors to the 1987 Act.

The Department has reviewed that issue in the last couple of weeks, and I think it is quite clear that your intent in the Congress in passing the 1987 Act was not to give further rigidity to the pilot program in those five States. We are trying to do just the contrary.

So, the bottom line is: word has gone out to all concerned in the Department, including the field, that there is no problem with the use of a combination of funding sources in addition to the three pots of money authorized under the pilot program to be used on a particular project.

Senator CHAFEE. So, it is on track.

Mr. BURNLEY. It is on track, and I would hope and expect that the States which are participating would have no further difficulties in terms of how they put the combination of funding sources together.

Senator CHAFEE. We recently approved legislation implementing MARPOL Annex V which deals with the discouraging or forbidding of dumping of trash overboard by vessels at sea certainly within the territorial waters of the United States. It addressed plastics and other garbage.

The enforcement of that lies with the Coast Guard.

Mr. BURNLEY. Yes, sir.

Senator CHAFEE. My question to you is, how feasible is it for the Coast Guard to do this in view of the whole series of duties that we seem to be heaping upon the Coast Guard without commensurate increases in funding, particularly the duties we are giving them regarding drug trafficking interdiction?

Mr. BURNLEY. I have consulted with the Coast Guard leadership about the MARPOL related responsibilities. As you know, we enthusiastically support that undertaking. They have assured me—and I think they have publicly stated, as a matter of fact—that they believe they have adequate resources to be able to vigorously enforce the provisions of that Annex.

As to your underlying, more general question about the stretching thin of the Coast Guard, I could not agree more that they have been asked to undertake a variety of very important responsibilities—drug interdiction being the most notable and substantial addition to those responsibilities. I have found them to be an extraordinarily efficient operation. They are able to, in ways that are generally wondrous, cover a multiplicity of missions with limited resources.

I have worked hard in my time at the Department and will continue to do so for so long as I am there, to make sure that we are asking for what the Coast Guard needs in the way of resources, being as realistic as we all have to be with the deficit problems we

face. Nonetheless, I have no hesitancy in going either within the executive branch or, once I get the green light from OMB, coming here and saying to you we need whatever we need for the Coast Guard to do its job.

It is very important, as they undertake new responsibilities, that their more traditional responsibilities such as search and rescue and fisheries enforcement, things they have done for 200 years, not be in any way undermined.

Senator CHAFEE. I think sometimes we forget how small the Coast Guard is. I don't know how big they are, but——

Mr. BURNLEY. They have 38,000 uniformed personnel and 4,000 to 5,000 civilians.

Senator CHAFEE. So, you are talking about 45,000 enlisted men, officers, and civilian employees.

Mr. BURNLEY. Yes, sir.

Senator CHAFEE. I would like to ask you about a subject that we wrestled with in this committee last year, and that deals with highway beautification and the regulation of billboards. I think Senator Stafford might have touched on that in his opening statement.

Your predecessor, Secretary Dole, gave us in this committee, those of us who believed in the regulation of the billboards, a great deal of support. Is it my understanding that your view is similar to hers in that what constitutes a taking is to be left to State law?

Mr. BURNLEY. Yes, sir. I think that is correct. I want to reserve the right, in a given instance, to come back to you and say I think that is an extreme interpretation, if we have such an instance. But let me say this.

There are certain issues to which great passions over time are attached. They are important issues, and that is why passions are attached. We have touched upon a couple here this morning already.

The passive restraints debate lasted two decades. The question of speed limits has been with us since the early 1970's on the national level. Since the mid-1960's, the question of billboard regulation has been, I think, a similar sort of issue to which, over time, emotions have been attached on both sides.

I frankly am dispassionate on the issue of billboard regulation. By that I mean to say that I will try to do it in good faith based upon the statutory construct that you have given us. I hope that you will never catch me trying to play with the margins in any sort of inappropriate way in this or any other program. I think, to the contrary, it is important once you have written the law that those of us in the executive branch administer it in good faith.

So, it is the case that traditionally the Federal Highway Administration and the Department have left the definition of taking to State law. I don't anticipate any sort of dramatic turnaround during the months to come, but I do want to leave myself enough wiggle room, if there is a particular instance, to come back and say here is a particular instance where there may be a problem.

Senator CHAFEE. All right, thank you.

Thank you very much, Mr. Chairman.

Senator BURDICK. I have one or two concluding questions.

What is your view of proposals to restructure DOT by creating, one, a separate Motor Carrier Administration and, two, a surface

transportation administration combining FHwA and UMTA into a single agency.

Mr. BURNLEY. Mr. Chairman, as to the first proposal, a motor carrier administration, as you know, during Secretary Dole's tenure and my tenure as Deputy, we have upgraded already the visibility of and the level of administrative responsibility for motor carrier issues by creating an Associate Administrator's position in the Federal Highway Administration to undertake those responsibilities.

Before taking another step and creating another Administration, I would frankly, before I could support that, have to be convinced—and I am in all candor not now convinced—that the time and energy and, to some extent, money, although we can made too much of that, involved in creating a new Administration will not undercut the very important substantive responsibilities the Congress has given us in the 1984 and 1986 Acts.

It has been my observation that when you start reorganizing and moving the boxes around and moving the players around, everybody gets very distracted while that is going on. They get very worried about who is going to sit where and what color the carpet is going to be. I want to keep those folks worried about how they are going to get those regulations out that you told us to get out in the 1984 and 1986 Acts and get them up and running as a regulatory mechanism.

I think that if the day comes when a persuasive case can be made that we will not undercut the substantive responsibilities that I have described, I have no ideological aversion to the creation of a Motor Carrier Administration.

However, I will say this. One argument that has been bandied about by the supporters of that idea is that somehow motor carriers are not getting their proper level of attention in the Department, and I want to set their minds at ease on that. Some days they may feel, if I am confirmed, they are getting too much attention at the senior levels of the Department.

I have spent a lot of time on motor carrier issues. Secretary Dole spent a lot of time on them, and I fully expect to continue to do so.

As to the other part of your question, a Surface Transportation Administration, once again, I would think that before going in that direction, we would have to be convinced that there were some gains from it on the policy making side. For now, I would hard put to give you a list, if you were to ask me for a list, of what those gains would be.

I do think, though, Mr. Chairman, that the idea is worth exploring. As we undertake the discussion about the future of the highway program looking toward the early 1990's, that discussion certainly ought to include mass transit, its future on the Federal level, and whether the Department ought to consolidate those responsibilities.

I must say, though, in conclusion on this question, that, as I said to the Senate Commerce Committee earlier this week, during my time as Deputy, I have frankly been disinterested most days in plan of organization issues, reorganization issues and that kind of thing, because the Department has such an enormous array of substantive responsibilities. I felt that was the area in which my time

could best be spent. As to managerial organizational issues, I have tried to make the structure we have work. I have tried to make sure that when you give us an assignment we carry it out as quickly and efficiently as we can.

Senator BURDICK. Well, then, I can restate your answer by saying that at this time, you wouldn't be in favor of the restructuring.

Mr. BURNLEY. Yes, sir. I am willing to look at opportunities that might be provided by it. Certainly, if the proponents of the Motor Carrier Administration idea, in particular, were to come to me with some further organizational reforms having to do with the sunset of the Interstate Commerce Commission, the elimination of tariff filing, and some other issues on the regulatory side, that might go a long way toward getting my sympathy up for the idea.

Senator BURDICK. I interpreted correctly then. At this time, you——

Mr. BURNLEY. At this time, yes, sir, and you said it much more succinctly than I did.

Senator BURDICK. There is a proposal to tie obligational authority to specific demonstration projects authorized in the 1987 highway Act and to allow that authority to be carried over year to year. What is your view of that proposal? What effect would it have on the program overall and the States' regulatory Federal-aid highway programs?

Mr. BURNLEY. Mr. Chairman, I am no fan, as you know, of the concept of demonstration projects. However, again, the 1987 Act is law, and it is my belief that we should fund those projects. If attaching obligational authority to specific projects will further assure the funding of those projects, then I will not be averse to it.

But whether or not that occurs, so long as I am at the Department, we will do what we can to make sure that your intent is carried out as to those projects.

Senator BURDICK. Well, thank you very much, Mr. Burnley for meeting with the members of this committee today, although the Committee on Environment and Public Works is not the committee of jurisdiction to forward your nomination to the Senate.

I know that you are aware of your responsibilities with respect to the Federal Highway Administration and the major agencies within the Department of Transportation. For that reason, it has been very helpful to have the opportunity to discuss highway and transportation issues with you.

The committee looks forward to working with you over the next year. Once again, we appreciate your being here.

Mr. BURNLEY. Thank you for letting me come.

Senator BURDICK. The committee stands adjourned.

[Whereupon, at 12:02 p.m., the committee adjourned, to reconvene subject to the call of the Chair.]

[Mr. Burnley's written statement and responses to additional questions follow:]

STATEMENT OF JIM BURNLEY

NOMINEE FOR U.S. SECRETARY OF TRANSPORTATION

U.S. SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

November 19, 1987

Mr. Chairman and Members of the Committee, it's a pleasure to have the opportunity to appear before you. I will keep my opening statement brief.

For the past four and one half years, it has been my privilege to serve first as the Department's General Counsel, and then as Deputy Secretary to Secretary Elizabeth Dole. I am honored that the President has nominated me to succeed Secretary Dole as the ninth Secretary of Transportation, and if confirmed, I pledge to you that I will do all in my power to carry out faithfully the responsibilities of Secretary, and to ensure that safety continues to be the first priority.

The past few years have posed many challenges in transportation and I expect that the next year will bring even more. I look

forward to working with this Committee and other Members of Congress as we address the many important issues that face transportation today.

One important area of mutual interest is the federal highway program. A modern, well-maintained infrastructure of highways and bridges is absolutely critical to this country's well being. Your Committee recognized its importance in 1982 when you led the Congress in passing a five cent increase in the federal motor fuels tax, legislation sought by the Department under Drew Lewis. That represented a major commitment to the repair and maintenance of the nation's highways and bridges, many of which had fallen into a serious state of disrepair. Since then, we have repaired and upgraded hundreds of thousands of miles of primary and secondary roads and bridges. It's been an investment in the safety of millions of travellers.

In addition to maintaining a viable national infrastructure, many future challenges lie before us. The federal interstate system, for example, is nearing completion. I would like to work with the Committee and the highway community to begin considering the federal government's post-Interstate role in the construction and maintenance of the nation's highway system. Although reauthorization will not occur until 1992, this issue is of sufficient importance that the discussion and debate should begin now.

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I would also like to work with you in removing regulatory and other impediments to innovation and private sector initiative to ensure that the United States is on the cutting edge of new transportation technologies. As you know, the Department has been assigned the lead role in facilitating the development of this country's commercial space launch industry. We are also interested in exploring new technologies such as very high speed rail systems and superconductivity.

I want to take this opportunity to commend this Committee for its work on environmental issues of particular concern to the Department. Shortly before the end of the 99th Congress, the Senate passed a comprehensive oil spill liability and compensation bill that originated in this Committee. If confirmed, I would like to work with you to achieve passage of this important legislation in this Congress. I would also like to commend this Committee for reporting legislation this month to implement the Annex V Prevention of Pollution At Sea Treaty. Ratification of the Treaty will mean cleaner waters across the entire globe.

Let me conclude my statement by thanking you for this opportunity to testify before the Committee. I would be happy to answer any questions.

Senator Burdick Question 1

North Dakota and other agricultural States have serious problems in moving agricultural commodities on existing roads and bridges. More goods are being moved on roads instead of rail, and they are being loaded onto larger and heavier vehicles. How can agricultural States meet their needs for more highway improvements at a time when funding is being cut back?

Answer:

The Interstate and Federal-aid primary systems provide substantial levels of transportation service to most rural areas, and the only transportation service to many. The Deparment implemented the creation of a designated truck network in each State so that trucks, the backbone of rural freight service, can provide a high level of service in rural areas while minimizing pavement deterioration. These systems provide accessibility and mobility to rural residents and sustain economic vitality in rural regions.

The Department has supported and continues to support adequate Federal funding on high-order systems to maintain current levels of system performance and meet critical future needs, including pavement reconstruction, expanded capacity, and bridge needs. On lower order highway systems the Department supports reductions and consolidation in the number of categorical grants so that States may use limited Federal funds in the most efficient manner possible with the least Federal oversight.

Since passage of the 5-cent per gallon Federal gasoline increase in 1982, the States have significantly improved overall conditions on rural highways. Every State has shown an increase in the number of miles resurfaced or reconstructed with the result that a decade long trend in increased deterioration has been at least stablized, if not reversed. We anticipate the continuation of this trend.

Senator Burdick Question 2:

It has been seven months since passage of the 1987 highway act. In implementing the legislation, what are your chief concerns, and what issues are still unresolved?

Answer:

The only major area which remains to be implemented pertains to the Uniform Relocation Amendments of Title 4. As the lead agency designated to implement the Uniform Act, FHWA has responsibility for issuing governmentwide regulations to achieve greater uniformity of program implementation and administration at the Federal level. We have accomplished much since the passage of the Act. We are now in the process of completing an Interim Final Rule which we expect to be published by December. We have begun the considerable process of interagency coordination necessary to carry out the task and we expect that this will continue over the next 18 months.

QUESTION 3: The 1987 highway act contains several provisions that provide for more flexibility in highway financing and alternative methods of funding highway construction. What do you think of the Highway Trust Fund as a financing mechanism, and what additional funding methods, if any, look promising?

ANSWER:

The Highway Trust Fund has proved to be a useful mechanism for highway financing over its 30-year life. Since it is made up of fees paid by highway users — primarily, the motor fuels tax, it has been a stable source of funding that has permitted State highway agencies to plan ahead with considerable confidence that funds will be available for construction. However, there is a limit to existing Federal, State, and local highway resources, and there is a critical need for new or expanded highway facilities. I am fully supportive of exploring options to increase the financing options available to State and local highway agencies.

One important option is to permit States to combine Federal-aid assistance and toll revenues for highway construction. Congress authorized a pilot toll facilities program in the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). In her final days in office, Secretary Dole sent the Congress a bill to broaden the STURAA provisions to all States. That bill has been introduced in the Senate as S. 1823. I urge this Committee to give that bill prompt and careful consideration.

As we consider the proper structure of the Federal-aid highway program in the post-Interstate era, alternative financing methods will be an important issue, and I look forward to working with the Congress to examine the options.

BURDICK

QUESTION 4: DOT recently issued a final rule on the disadvantaged business enterprise program. Are there any States that have had difficulty in implementing the revised DBE program or in meeting their DBE goals this year?

ANSWER:

The major revision to the DBE program resulting from the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) has been the redefinition of DBE to include women business enterprises (WBEs). As a consequence, States are no longer permitted to have separate goals for ethnic minority DBEs and WBEs. DOT issued the final rule amending our DBE requirements on October 21, 1987. All States are now in compliance with the single goal requirement.

Other changes resulting from STURAA included a new cap on the gross receipts of DBE firms controlled by one person, and requirements for uniform certification criteria and annual directories of eligible firms. Compliance with these requirements will take a while, but we believe States are not encountering significant difficulties in complying.

For FY 1987, all States (including D.C. and Puerto Rico) had goals of 10 percent or more except: North Dakota (8%), Maine (6%), Montana (6%), and Wyoming (5.5%). While we do not have final data for FY 1987, based on data through the third quarter and preliminary data for the fourth quarter, it appears that all States but one will meet their 1987 goals. Georgia is likely to fall short of its goal. Nationwide, DBEs should account for more than 14% of contracts awarded under the Federal-aid highway commitments in 1987.

Senator Burdick Question 5:

The 1987 highway act amended Title 23 to allow states to lapse Interstate construction funds one year in advance. There have been complaints that this has shortchanged some 40 states while allowing the other states to "double-dip." What do you think the impact has been, and is there any administrative or legislative action you would recommend?

Answer:

Section 114(a) of the 1987 Highway Act permits States to lapse Interstate construction funds 1 year earlier than the normal 2-year period of availability. This provision was enacted in order to accelerate completion of the Interstate System in States with projects ready to go. Nine States lapsed a total of $1.112 billion under this provision at the close of FY 1987. These funds were added to the other available Interstate discretionary funds to be distributed in FY 1988. States which lapsed Interstate construction funds early were not precluded from applying for Interstate discretionary funds as long as they certified that they would completely use the regularly apportioned Interstate funds they received in FY 1988.

Current law requires that obligation authority under the Federal-aid obligation limitation be reserved for discretionary funds in the same ratio as apportioned funds. For FY 1988, this ratio amounts to 88.1 percent of all apportioned and allocated funds. Therefore, due to the additional $1.112 billion of Interstate discretionary funds available this year, an additional $980 million was reserved under the Federal-aid obligation ceiling. These are funds that would have otherwise been distributed to all States under the formula portion of the obligation ceiling.

Of the nine States that lapsed Interstate funds early, seven applied for and received Interstate discretionary funding this year. In some cases, these grants exceeded the amount of funds lapsed early. These seven States benefited from this provision by being able to obligate funds on Interstate projects (with specially

Senator Burdick Question 5 continued -

reserved obligation authority) that they otherwise would have had to obligate within their formula ceiling. This permits these States to expedite Interstate construction projects without having to greatly sacrifice in other programs that are funded within the Federal-aid obligation ceiling.

If the funds reserved from the obligation ceiling due this provision had been distributed to all States as part of the formula ceiling, 42 States would have received more total obligational authority. However, some progress toward completion of the Interstate System would have been sacrificed.

The only way to mitigate the impact this year is through a statutory change. We do not recommend that, but we would be pleased to provide technical assistance to the Committee in developing draft legislation, if the Committee chooses to pursue a legislative remedy.

QUESTION 6: The formulas used to apportion highway funds are of critical importance to all States. Would you comment specifically on the present Interstate 4R formula and also advise the Committee of any studies DOT is doing or plans to do of apportionment formulas?

ANSWER:

The Congress considered the apportionment formulas as part of the highway reauthorization process and left most of the formulas unchanged. One exception was to begin to consider discretionary allocations in the calculation of the minimum allocation. With respect to the Interstate 4R program, Congress decided not to change the apportionment formula, but it did restructure the program to include a new discretionary component. The discretionary funds are to be allocated with "priority consideration to any project the cost of which exceeds $10 million on any high volume route in an urban area or a high truck-volume route in a rural area."

I believe we should examine how the new Interstate 4R program works before we consider further changes. DOT is not now conducting or planning any formal studies of apportionment formulas, but review of the formulas will, of course, be a major part of our consideration of the proper structure of the post-Interstate Federal highway program.

Question #7 - Senator Burdick

7. What studies does DOT have underway to determine the effects of the higher speed limit, and when will those findings be available? With respect to the 55 mph speed limit, please describe the oversight procedures used by FHWA of the States' monitoring programs. For example, does FHWA visit monitored sites, review adjustment factors, and determine the reliability and accuracy of data collected by the States as part of its oversight role?

- In the report accompanying the Department of Transportation's fiscal year 1988 appropriation bill, the House Appropriations Committee directed the National Highway Traffic Safety Administration (NHTSA) to conduct "a comprehensive and definitive study of the safety impact of raising the speed limit to 65 miles per hour on rural interstate highways." The goal of this study is to estimate the safety impact of the 65 mph speed limit as determined by the traffic fatality and injury changes due to the higher speed limit. The NHTSA submitted a study plan to the Congress on November 5, 1987. The final report is scheduled to be submitted by December 30, 1990.

- Speed monitoring oversight is a function of the Federal Highway Administration's (FHWA) Division Office in each State. Division personnel are familiar with the basis of the State's speed sampling plan, the schedule of data collection sessions and the mechanics of how the data are collected. The Division Office reviews and approves the speed monitoring sampling plan proposed for use by a State during the coming year. This sampling plan includes the times and locations at which monitoring activities will take place during the year. Division personnel periodically, throughout the year, make random checks on operations for conformance with the approved plan, including visits to monitoring sites. Division personnel, along with Regional and Headquarters personnel, also verify the calculations and adjustment factors submitted by the State at the close of the year.

Senator Burdick Question 8:

Please describe any studies DOT has underway on the future of the Federal-aid highway program and changing highway needs. What do you see as the major highway issues now and in a few years when reauthorization legislation is next considered?

Answer

The Federal-Aid Highway Act of 1987 reauthorized the Federal-aid program for 5 years through FY 1991 and provided authorizations to complete the Interstate Highway System. The Federal role in the post-Interstate completion era should be carefuly examined before the end of the current reauthoriztion period. The Federal Highway Administration has begun some technical studies that may be of some utility in this regard.

The major issues involve the appropriate Federal role in the future highway program, restructuring of the highway program to reflect changes in highway needs, and how to provide the resources required to address highway needs. For the post-Interstate era, I believe there will continue to be a Federal role in assuring that the Interstate System is properly maintained. However, the Federal role, if any, for other highways can be reduced or eliminated.

SENATOR BURDICK

Question: Please list the major transportation issues you see for an incoming Secretary of Transportation? What will be your priorities with respect to the Federal-aid highway program?

Answer: If confirmed, my primary objective will be to ensure that the American people have the safest, most efficient transportation system possible. This decade has been a period of extremely rapid change, posing new and often unforeseen challenges to each mode of transportation. As these industries adjust to reduced levels of federally-imposed economic regulation and a more competitive world economy, the Department plays a key leadership role both in facilitating the adjustment process and most importantly, in protecting the safety of the traveling public.

This is an especially turbulent time for the aviation, motor carrier and maritime industries. To ensure that we are keeping pace with the changing needs of aviation, I would work with the Congress, the Federal Aviation Administration, and aviation user groups in taking a hard look at the structure of the FAA and proposing reforms as necessary.

To ensure that the maritime industry has the necessary flexibility and support it needs to stay competitive, I would make legislative reform of the Operating Differential Subsidy program a priority. I would also continue to emphasize the importance of assuring that our trading partners provide American shipping companies with the same access and opportunities that we provide their maritime industries.

The trucking industry has also undergone major changes that require commensurate adjustments in the way the Department does business. Toward that end, implementation of the Motor Carrier Safety Acts of 1984 and 1986 needs to be expedited. In addition, I would explore further legislative and regulatory reforms to enhance both motor carrier safety and productivity.

With respect to the Federal-aid highway program, my first priority is to assure timely and effective implementation of the STURAA of 1987. Beyond that, I think it is important that we begin discussing the future of the highway program in light of the impending completion of the Interstate system. As I told the

Senator Burdick - continued

Committee in my prepared statement, I would like to work with the Committee and the highway community to begin considering the federal government's post-Interstate role in the construction and maintenance of the nation's highway system. Although reauthorization will not occur until 1992, this issue is of sufficient importance that the discussion and debate should begin now.

SENATOR BURDICK

Question: How do you see the Office of the Secretary interacting with the modal administrations, and how would you describe your approach to management at the Department?

Answer:

The Office of the Secretary should continue to guide the setting of national policy on major transportation issues, while the modal administrations implement policy on a day-to-day basis. Increasingly, issues cut across several modes. A good example is the current effort to promulgate new regulations requiring drug testing of personnel in critical safety and security positions.

I will continue to approach management of the Department by relying heavily on a combination of reliance on a variety of internal information systems combined with extensive personal contacts with the senior leadership of the modal administrations and OST. I believe in delegating to subordinates as much authority as they demonstrate they are competent in handling. I also believe in holding them accountable for proper implementation of our policies, just as I expect to be held accountable by the President, Congress and the American people.

Senator Burdick

GENERAL ACCOUNTING OFFICE (GAO) REPORT: ENHANCING POLICY AND PROGRAM EFFECTIVENESS THROUGH IMPROVED MANAGEMENT

QUESTION: Are there any suggestions in that report that you plan to adopt? Do you have in mind any changes in process or procedures that could lead to improved management at DOT?

ANSWER: The GAO report, which was done over a period of about two years, incorporated a number of activities already underway in the Department, and contained a number of good suggestions. This is particularly true where the report built upon the work done by the Secretary's Safety Review Task Force.

Consistent with the GAO recommendations and work the Department initiated, DOT has pursued improvements that include using operational measures such as frequency of safety violations, to target inspections, redefining the Federal Aviation Administration's staffing and, implementing a nationwide inspector allocation plan in the Federal Railroad Administration based on accident rates and projection of future risk.

As the report recommends, we will continue to seek ways to improve grants management throughout the Department.

In improving information management, accounting, and procurement systems, we have established an Information Resource Management Advisory Council which provides consolidated approaches towards managing and acquiring information resources, and issued a consolidated Transportation Acquisition Regulation. We are also developing a single Departmental accounting system and have developed a standard General Ledger to be used by all executive agencies.

Senator Burdick Cont.

In the area of human resource management planning, we have augmented our program with the establishment of a new Personnel Planning, Research and Systems Division within OST.

The Department is continuing to review DOT R&D activities to improve the linkage with Secretarial priorities and industry needs as suggested by GAO.

11. A study, Transportation Professionals: Future Needs and Opportunities, was recently completed by the Transportation Research Board at the request of Congress. What do you expect staff levels to be at FHWA over the next year, and do you see any trends that will lead to shifts in future professional needs? Also, do you believe there is adequate representation of women and minorities in professional positions at FHWA?

The Federal Highway Administration expects to maintain current staff levels over the next year, generally replacing only those lost through attrition. Should sequestration under Gramm-Rudman-Hollings continue for a substantial period, it is quite possible staffing would be reduced significantly. Although the Federal Highway Program is already positioned to respond to future needs, in the near term highway programs will continue to focus on major reconstruction and rehabilitation and increasing bridge and traffic operations work.

FHWA is proud of its record during the past several years of hiring significant levels of women and minorities in its career training programs, which serve as the primary vehicle for entry of new professional employees into the agency. The largest professional group in FHWA is engineers. As an indication of success in recruiting engineering graduates, although they make up only 13 percent and 8 percent on an average of the population of engineering schools, 24 percent and 18 percent of engineers hired in the last five years were women and minorities, respectively. Clearly, we need to continue to emphasize recruitment efforts such as these.

QUESTION FOR SENATOR MOYNIHAN

(1) The Notice of Proposed Rulemaking regarding the installation of fiber optics along interstate highway right of ways was published on December 19, 1986. When we last checked the rule was awaiting action by the Secretary and then transmittal to the Office of Management and Budget for final clearance. Have you taken action on this matter yet? When do you plan to act?

ANSWER:

In my testimony to the Senate Commerce Committee on November 17, 1987, I specifically cited the fiber optics rulemaking as an example of the frustration I have sometimes encountered in assuring that we are not needlessly intrusive in state and local decisionmaking. As I told the Committee, the fiber optics rule package appeared on my desk a few days ago and the proposal was such that the Federal Highway Administration would have to look at every single one of those projects one at a time. I promptly sent the rule back to have it rewritten to reduce review on the federal level to the minimum required by federal law. I have directed my key staff to make this rulemaking a top priority and I hope to move the rule as expeditiously as possible.

Question from Senator Moynihan
for Secretary-Designate Burnley

Question: American Maritime Transport, Inc. (AMT), headquartered in Tarrytown, New York, has chartered a U.S.-flag vessel to Israel for the carriage of grain from the U.S. to Israel. The charter contract is contingent upon AMT receiving operating-differential subsidy (ODS) to defray the cost of using a U.S. vessel compared to a foreign-flag vessel.

On September 8, 1987, the Maritime Administration (MARAD) of Department of Transportation, which administers ODS, wrote to AMT saying the proposed Israel contract was eligible for ODS payments. Therefore, AMT and Israel entered into the contract. Subsequently, on October 20, MARAD sent a second letter revoking its prior commitment to AMT for policy reasons, saying ODS might not be paid.

MARAD has now agreed that it will begin a rulemaking proceeding to establish regulations to address the policy issues raised by the AMT contract and has agreed that ODS will be paid until the rulemaking is finished. But MARAD want AMT to waive any legal right that it may have based upon MARAD's September 8 letter. Thus, if MARAD's rulemaking determines the type of contract AMT has should not receive ODS, the subsidy payments could be cut off. The contract is for five years, and the rulemaking could be completed in a significantly shorter period of time.

Could you agree that whether or not MARAD's policy concerns are justified, MARAD should grandfather the AMT contract and should not ask AMT to give up its legal rights in order to receive ODS?

Answer: MARAD has offered AMT a settlement which would provide to them ODS for movement of cargoes under the charter unless at sometime in the future MARAD clarifies the situation as a result of appropriate rulemaking proceedings, and finds no further subsidy is payable. MARAD expects an answer from AMT shortly.

Question from Senator Moynihan

You a[re] aware of the fact that a Federal Highway Administration interpretation of a prov[ision] in the STURAA has resulted in an eight percent loss in FY 1988 obligational authority by all states and a commensurate windfall to fewer than ten states. Can you assure me that (1) this is a one year phenomenon and (2) you will see to it that the affects of the one time distribution of obligational authority are taken into account when future distribution of discretionary funds are made? This would, in part, serve to equalize the treatment of the states.

Answer:

Section 114(a) of the 1987 Highway Act permits States to lapse Interstate construction funds 1 year earlier than the normal 2-year period of availability, thus supplementing the pool of discretionary funds and allowing States with projects ready to go to accelerate completion of the Interstate System. Nine States voluntarily lapsed a total of $1.112 billion under this provision at the close of FY 1987. These funds were added to the other available Interstate discretionary funds to be distributed in FY 1988. States which lapsed Interstate construction funds early were not precluded from applying for Interstate discretionary funds as long as they certified that they would completely use the regularly apportioned Interstate funds they received in FY 1988.

Current law requires that obligation authority under the Federal-aid obligation limitation be reserved for discretionary funds in the same ratio as apportioned funds. For FY 1988, this ratio amounts to 88.1 percent of all apportioned and allocated funds. Therefore, due to the additional $1.112 billion of Interstate discretionary funds available this year, an additional $980 million was reserved under the Federal-aid obligation ceiling. These are funds that would have otherwise been distributed to all States under the formula portion of the obligation ceiling.

Of the nine States that lapsed Interstate funds early, seven applied for and received Interstate discretionary funding this year. In some cases, these grants exceeded the amount of funds lapsed early. These seven States benefited from this provision by being able to obligate funds on Interstate projects (with specially reserved obligation authority) that they otherwise would have had to obligate within their formula ceiling. This permits these States to expedite Interstate construction projects without having to greatly sacrifice in other programs that are funded within the Federal-aid obligation ceiling.

If the funds reserved from the obligation ceiling due this provision had been distributed to all States as part of the formula ceiling, 42 States would have received more total obligational authority. However, some progress toward completion of the Interstate System would have been sacrificed. The criteria and priorities for Interstate discretionary funding are clearly stated in 23 U.S.C. 118(b)(2)(B) as amended by the STURAA. Interstate completion and high cost are the bases for these criteria rather than prior discretionary funding and/or obligational authority impacts.

We do not recommend any administrative or legislative action to alleviate this situation. Since the States that benefited from this provision will not have funds to lapse at the end of this fiscal year, this is likely to be a one-time phenomenon. Further, the enabling provision allows for only one more early lapse (prior to October 1, 1989) and because of our knowledge of future project schedules, we believe that few of the eligible States will exercise their option at the end of FY 1988. In addition, States which received less obligation authority this year that are not one-half percent minimum Interstate construction States will receive larger Interstate apportionments and, consequently, more obligation authority in future years due to the cost-to-complete reduction in those States that received Interstate discretionary funds this year.

QUESTION SUBMITTED BY SENATOR REID

Question: 1. What is the role of the DOT in ensuring the safe transport of high-level radioactive wastes, such as spent nuclear fuel and military wastes? In this regard, do DOT's regulations or mandate conflict with chat of the Nuclear Regulatory Commission of others?

Answer: The Department of Transportation (DOT) is responsible for the safe transportation in commerce of all radioactive materials. Toward this end, the Department has promulgated a comprehensive system of regulations encompassing highway routing, driver training, package design, labeling and marking, cargo segregation and separation, and other regulations that ensure the integrity of the packaging during transport. These regulations are directed toward minimizing radiation exposure, reducing the possibility of damage to the packaging during transport, and preventing the release of the radioactive materials should an accident occur.

Within the Department, the Research and Special Programs Administration is responsible for managing the hazardous materials transportation safety program, including the coordination of nuclear transportation issues with the Department of Energy (DOE).

DOT and the Nuclear Regulatory Commission (NRC) have overlapping regulatory responsibility and are not in conflict because our interrelated activities are conducted under a Memorandum of Understanding between the two agencies. Basically, DOT has the responsibility for developing overall safety standards covering the mechanical condition of carrier equipment, qualifications of carrier personnel, loading and unloading, handling, storage, and vehicle placarding requirements. DOT also has responsibility for developing safety standards for classifying radioactive materials, for the design specifications and performance requirements of packages for quantities of radioactive materials, other than fissile materials not exceeding Type A limits, and for low specific activity materials. The NRC is responsible for regulating safety in receipt, possession, use, and transfer of by-product, source, and special nuclear materials. Also, NRC reviews and approves package design for fissile materials and for other radioactive materials exceeding Type A limits. DOT has "incorporated by reference" the NRC packaging standards for such materials.

QUESTION SUBMITTED BY SENATOR REID

Question: 2. If a central high-level radioactive waste repository or Monitored Retrievable Storage facility is established, what additional money would be required by DOT to carry out its responsibilities to ensure safe transport of the waste from points of origin all over the country to the central storage site?

Answer: In FY 1988, DOT has requested funds ($300,000) to analyze risks and impacts of nuclear transportation routes. An in-house nuclear transportation analytical capability is being developed at the Department's Transportation Systems Center. Funding for this activity is part of our on-going research effort in support of our hazardous materials regulatory program.

QUESTIONS SUBMITTED BY SENATOR REID

Question: 3. With regard to the transport of high-level nuclear waste, what is the increased likelihood of a catastrophic highway or railroad accident occurring if waste is shipped, again, from all over the country to a central repository?

Answer: High-level nuclear waste has been transported safely for approximately 40 years with no deaths or injuries attributable to the radioactive nature of the material. Severe transportation accidents have occurred, including fatal trauma injuries to a driver, but the integrity of the casks has been maintained without a release of contents to the environment.

The risks of a catastrophic highway or railroad accident, i.e., release of the contents, has been quantified and is specified in the Department of Energy's Environmental Assessments for the Civilian Radioactive Waste Program. The risk is low under the various scenario of different repository locations and the modal split between rail and highway. The Lawrence Livermore National Laboratory has studied the risk of transporting spent fuel. In their February 1987 report, they conclude that the risk associated with these shipments was less than one-third the previous low estimate of 0.0004 latent cancer fatalities per year. The Office of Technology Assessment's recently completed study of Hazardous Materials Transportation concluded "that the probability of an accident severe enough to cause extensive damage to public health and the environment caused by a radiological release from a properly constructed cask is extremely remote." We share that view and will diligently work to maintain the safety record of nuclear materials transportation.

QUESTION: What is the policy of the DOT on the shipment of wastes at critical points such as the Eisenhower Tunnel and Hoover Dam? What mitigating measures would be proposed if southern Nevada were selected as the repository for high-level nuclear waste?

ANSWER: The Department of Transportation (DOT) regulations governing the routing of spent nuclear fuel require that such shipments be transported over (1) Interstate System highways, bypasses or beltways, or (2) alternative routes designated by states in accordance with DOT Guidelines or equivalent routing analysis adequately considering overall risk to the public. Since the road over the Hoover Dam is not part of the Interstate Highway System, it would not be used for spent nuclear fuel transportation unless designated by Nevada as an alternative route. Under the DOT regulations, such a designation would require substantive consultation by Nevada with at least Arizona.

The Eisenhower Tunnel, on the other hand, is part of the Interstate System and would be on an authorized route for the transportation of spent nuclear fuel except that Colorado has designated alternative routes which avoid the Tunnel.

Because conflicts between States can arise over complex and controversial routing issues, DOT has proposed in its Hazardous Materials Transportation Act Reauthorization Bill that DOT be provided with the authority to resolve such matters in a manner which will fairly consider the overall safety impacts on the public in each of the states affected by such a routing decision. Thus, responsibility for mitigation measures on these routing issues now rests primarily with the States, which have authority to designate alternate routes when problems exist on Interstate Highway routes.

QUESTIONS SUBMITTED BY SENATOR GRAHAM

Question: When the federal law pertaining to the National Speed Limit was changed last April (P.L. 100-17) the speed limit was raised to 65 mph on rural Interstate highways only. Excluded were highways such as the Florida Turnpike which, although designed and constructed for 65 mph or higher, are limited by federal law to 55 mph. There are other expressways in Florida and other states where this situation exists.

The Senate has included a provision in the proposed "Department of Transportation and Related Agencies Appropriations Act, 1988" (H.R. 2890) to permit 65 mph on non-Interstates in those areas where it is safe to do so. The Secretary of Transportation would be a part of this decision process. The practical effort would be to avoid the possible loss of about $14 million in toll revenues on the Florida Turnpike when I-95 is completed in Southeast Florida.

How do you feel about raising the speed limit on non-Interstate highways, such as the Florida Turnpike, in rural areas if these were designed and constructed to accommodate the higher speeds and if it is safe to do so?

Answer: The President's August 1986 letter to Senator Symms still governs Administration policy with respect to the 55 mph speed limit. The letter says, in part, "I believe that the time has come to restore greater authority to the states in this area."

If Congress decides to change the current law to permit higher speed limits on non-Interstate roads, I would hope the proposal would be limited to roads constructed to Interstate standards.

As you know, NHTSA will be analyzing the impact on safety of higher speed limits on rural Interstate highways.

GRAHAM

QUESTION: A proposal has been floated from time to time during the deliberations on the Federal budget to raise Federal excise taxes on motor fuels and use that money for deficit reduction purposes rather than for transportation. That would do grave harm to the financing system for transportation which we have in place in Florida at both the State and local levels. What do you think of this proposal? Would you as Secretary of Transportation be inclined to support the use of Federal motor fuel taxes for non-transportation purposes this year or in the future?

ANSWER:

I share your concern about proposals to increase the Federal motor fuels tax for deficit reduction purposes, and I have expressed my views within the Administration. I support the concept of user fees. While it appears that this idea is no longer under active consideration in the budget summit negotiations, if this proposal comes up again, it will be important to consider its impact on highway users, especially the truck and bus industry, which are so important to interstate commerce in this country.

Questions from Senator Bob Graham

In Florida, we are experiencing problems with completing acquisition of rights-of-way for highway construction before speculated purchase of those lands drives up the cost significantly. I have appointed a working group to explore this issue and the GAO is nearing completion of a study in this regard.

What are your plans for providing for advanced acquisition of rights-of-way in cases such as these?

Title 23 provides a funding tool with the right-of-way revolving fund that States can use to acquire land at an earlier stage and at considerable savings. Although the national demand exceeds the funds available, priority consideration is given to projects that show significant cost savings potential. Florida has been a significant user of these funds.

If you have no specific plans, are you willing to consider mechanisms within FHWA to address this problem?

Yes. We are acutely aware of the problem particular States and localities are facing and are interested in working with interested parties to explore solutions. FHWA is represented on your working group exploring this problem.

Motor Carrier Access Question from Senator Graham

Question: It is my understanding that the Federal Highway Administration has drafted regulations, and sent them to the Office of the Secretary which would increase the access of large trucks to terminals off the Interstate system and highways designed for use by large trucks. The obvious objective would be to define terminals in such a way as to give motor carrier operators access to highways which some states now feel are not safe for the operation of large trucks.

Section 158 of the "Surface Transportation and Uniform Relocation Assistance Act of 1987" (P.L. 100-17) authorizes a Motor Vehicle Study which would provide a basis for the kinds of decisions which the FHWA appears to be making on motor carrier access through regulations. The authorized study, to be done by the National Academy of Sciences, should be completed in something less than 30 months. The Senate, in the report accompanying H.R. 2890, the "Department of Transportation and Related Agencies Appropriations Act, 1988" requires any decision on motor carrier access beyond what is now permitted be based on the results of the NAS Motor Vehicle Study.

Would you tell us where you stand in your review of the proposed new FHWA regulations on motor carrier access?

How do you feel about the FHWA effort through regulations to preempt the Motor Vehicle Study authorized by the Congress in Public Law 100-17?

Don't you think that in matters involving the safety of the traveling public, especially where large trucks are concerned, that the decisions should be left to the states who have the knowledge and expertise to deal with conditions as they exist in the real world?

Would it not be prudent to wait for the results of the Motor Vehicle Study by the National Academy before making any changes in motor carrier access involving large trucks which might jeopardize public safety?

Answer: We are completing our review of the regulations. As you know, the reports accompanying the House and Senate Transportation Appropriations bills contain conflicting directions for the Department's access rulemaking. The House language directs FHWA to enact its rulemaking by January 1, 1988, while the Senate calls for the STURAA study to be expedited so that its findings may be incorporated into the final rule. Therefore, we are awaiting resolution of this conflict before taking any further action.

Senator Bob Graham

QUESTION: What types of transportation plans do you have for high-growth states like Florida?

ANSWER: Most of the Department's grant programs, such as highway, aviation and mass transit grants, are formula programs. With the exception of the Interstate System, which is apportioned based on the cost to complete portions of the System, and the discretionary mass transit money, and a small portion of the aviation program, most of the program money is apportioned to the states and they determine how the funds are to be used. However, the apportionment formulas include factors which reflect high-growth. For example, the formulas for the primary, urban and secondary highways all include a population component. The aviation grant program funds are apportioned based upon enplanements (numbers of people getting on airplanes), which clearly reflects the number of people traveling by air and would mean that heavily-used airports would get a larger share of the total funds. The formula for distributing mass transit funds includes both population and population density and, for the largest urban areas, the formula also includes operating factors such as number of route miles and other key measures that reflect ridership.

Thus, most of our transportation program funds are apportioned to the states and the formulas would provide more money over time for high-growth states. Needs, including the transportation demands resulting from high-growth also are considered in the allocation of discretionary funds. For example, in the aviation program, airport congestion is a high priority in determining where the funds should be spent. In mass transit, areas with heavily-traveled corridors are accorded priority in the distribution of discretionary funds.

In addition to the program assistance, some of the Department's research and development is directed toward finding more cost-effective solutions to specific transportation problems, such as the specific problems resulting from high-growth.

I believe that giving more flexibility to the states in administering these programs is critical to meeting the needs of high-growth states.

Senator Stafford Question 1:

There has been discussion concerning a highway technical amendments bill in Congress. Since you have been involved in the implementation of the 1987 Act, do you believe a technical amendments bill is necessary to adequately implement this Law?

Answer:

No. We have already implemented the great majority of the provisions of the 1987 STURAA. We do not believe that technical amendments are necessary since we are now well aware of the intent of Congress concerning how these provisions are to be carried out.

Sen. Stafford

Question 2 How would you characterize the similarities and the differences in transportation needs of rural and urban areas?

Answer The higher density of development in urban areas requires a transportation system that can carry heavier traffic volumes. In urban areas, therefore, there is a greater need for mass transit service as well as more intense use of the highway system and the application of traffic control devices to assure maximum efficiency in utilizing the available highway capacity.

In rural areas, on the other hand, traffic intensity is low enough so that a highway system with good coverage of the area would have adequate capacity. Supplemental mass transit service is needed to carry those who are unable to use automobiles. Many communities have been successful in providing transportation service with small buses, vans and taxis. Area coordinators serve to receive requests for service and dispatch vehicles on demand in some areas. Programs using volunteer drivers have been successful in some rural areas.

Senator Stafford Question 3:

I have been concerned about what the large number of demonstration projects included in the 1987 Act will do to the future of the Federal-aid highway program. What is your view as to how this approach will affect the program?

Answer:

The Administration has consistently opposed the proliferation of demonstration projects in highway legislation, citing it as a contributing factor to the President's veto of the STURAA of 1987. They create inequities in the distribution of funds. The direct impacts are compounded by the fact that additional special project funding reduces the amount of trust funding available for regular programs for all states. I strongly believe that states are in the best position to identify the most cost-effective projects on their individual merits. The Federal-aid program relies on the expertise of state and local officials.

If this pattern of increasing demonstration projects continues, I fear that it will erode the broad based support that the Federal-aid program has long experienced. However, when Congress enacts such legislation, I believe the Department should implement it in good faith.

SENATOR STAFFORD

QUESTION: How do you plan to protect our environmental resources while meeting the country's transportation needs?

ANSWER:

It is the policy of the Department of Transportation to integrate national environmental objectives into the missions and programs of the Department.

The National Environmental Policy Act provides a process by which environmental concerns are taken into account in planning and decisionmaking for federal and federally assisted projects. As part of the environmental review process, DOT evaluates alternative actions, with a view toward avoiding or minimizing adverse impacts on the environment. Final decisions reflect a balancing of environmental and transportation objectives.

It is also our policy to restore or enhance environmental quality to the fullest extent practicable. For example, many highway projects include enhancement of existing wetlands or replacement of wetlands taken by the project.

SENATOR STAFFORD

Question 5: How can our existing transportation facilities be used more effectively?

Answer: There are many opportunities to increase the effectiveness of existing transportation facilities. Both the Federal Highway and Urban Mass Transportation Administrations have developed and disseminated information on these transportation system management techniques. Some of these techniques are: bus system expansion, privatization, ridesharing, computerized traffic control, bus and carpool priorities, signal timing optimization, express bus systems with park and ride lots, staggered work hours, and parking restrictions.

Senator Stafford

Question 6: Are there ways in which highway and transit facilities can be better coordinated?

Answer: There are a number of ways that highway and transit facilities can be better coordinated. Transit and highway officials have cooperated in many areas to provide preferential treatment for buses on streets and highways. In some areas, exclusive lanes have been provided for buses and carpools. Park and ride lots have been conveniently located near highways which have express bus service to increase transit use. In regard to rail transit, several cities built their lines in highway rights of way to reduce costs. Parking lots have been built where major highways intersect rail lines for use by those who park and ride.

In some cities, officials have coordinated transit and parking policies, to encourage transit use and reduce the number of automobiles entering central business districts. In newly developing areas, conveniently located bus stops and shelters have been provided to immediately encourage residents to use transit.

Most important is consultation and joint planning by local, regional and state authorities, particularly when new projects are being considered.

Questions from Senator Stafford
Question #7

Question: DOT has sent a study to Congress required by section 216 of the Motor Carrier Safety Act of 1984 which identifies key vehicle factors contributing to the cause of truck accidents, identifies vehicle factors which result in fatalities, and identifies what enforcement agencies need to ensure compliance with traffic laws. The study describes actions that can be taken to make improvements and presents research agendas. What steps will you take to implement these recommendations?

Answer: The section 216 report dealt with the vehicle-related safety issues of braking, handling and stability, and crashworthiness, as well as with need for enforcement agencies to ensure compliance with existing traffic laws.

We identified better truck braking as the issue of highest priority, and we are actively pursuing the research and rulemaking agendas for brakes outlined in the report. The most urgent priority is to improve the inspection and maintenance of brakes now in service, a goal which is being pursued by the Federal Highway Administration and the states through the Motor Carrier Safety Assistance Program. The National Highway Traffic Safety Administration (NHTSA) is beginning a full-scale field test of a truck fleet equipped with the new generation of antilock brakes. Its goal is to evaluate antilock systems under American operating conditions and to examine methods for ensuring the reliability of such systems. NHTSA is nearing completion of a rulemaking to improve braking compatibility between tractors and trailers, and has just completed an 18-month field evaluation of automatic brake adjusters. The agency is continuing its cooperative effort with the Society of Automotive Engineers to develop measurement procedures for key brake system components such as valves and linings and to develop uniform marking procedures to ensure that vehicle owners can secure the correct replacement parts for their brake systems.

The Federal Highway Administration is well along in developing the driver training and licensing programs called for by the Commercial Motor Vehicle Safety Act of 1986. The prohibition on multiple drivers licenses, for example, has just gone into effect and has already prompted thousands of drivers to turn in their extra licenses.

Senator Stafford Question 8

What is your view with regard to Federal legislation which mandates the expanded use of alcohol-based fuels that are not subject to the entire Federal gasoline or diesel tax?

ANSWER

With gasohol taxed at only 3 cents per gallon, the mandated use of alcohol-based fuels will have a horrendous impact on the Federal Highway Trust Fund (HTF) and many State highway funds. For every gallon of gasohol sold, the HTF losses 6 cents. For the past 2 years, this has amounted to nearly a $500 million reduction in Federal revenues for our Nation's highways. Additionally, states that exempt gasohol lost over $300 million.

Should bills that mandate that the total quantity of motor fuel sold include 5-percent alcohol-based fuel (principally gasohol), the Federal HTF would lose over $3 billion a year. Many state highway revenues would also be reduced, totaling more than an additional $1 billion nationwide.

I would like to reaffirm that I am not opposed to developing alternative fuels. Proposals mandating the use of alternative fuel must be opposed, however, when the highway program tax base is used to subsidize them through special exemptions. Our highways are too important to the Nation's economy to ignore the impact these exemptions have on HTF revenues.

SENATOR STAFFORD

QUESTION 9: Various proposals have been made regarding the restructuring of the Federal-State partnership of the highway program, including turning back parts of the program and/or the user fees to the states. Do you intend to send to Congress legislation that would create a tax or revenue turnback?

ANSWER: We are looking at a number of possible options for the post-Interstate period. With completion of the Interstate System, and as we approach the 1990-91 reauthorization period, we have the opportunity to examine the future direction of the highway program. This may be the appropriate time to consider returning responsibility for the remaining highway programs to the states. Many of the current and future highway needs are local in nature and do not require Federal involvement. However, I believe the Federal government must assure that the Interstate system is properly maintained.

We have looked specifically at the possibility of a tax turnback and a revenue return, but I believe that it is premature to make a decision about legislation until the options have been fully explored. There are a number of efforts underway now, including those of our Federal Highway Administration and the American Association of State Highway and Transportation Officials. As I have already said, I am committed to supporting this effort and using the time I have to assess the options for the highway program. I look forward to working with this Committee and others in examining and developing options and in achieving a consensus on how to best meet the nation's future highway needs.

Senator Stafford

10. The Urban Mass Transportation Program includes several small grant programs which fund innovative projects or planning activities in rural and small urban areas. The amount of time it has taken the agency to make decisions on these grants after the funds are appropriated by Congress greatly concerns me. What plans do you plan to take to assure that decisions are made on a timely basis after the funds become available. What do you believe a reasonable time frame for such a decision should be?

Answer:

Ninety percent of the annual funds available for the Section 8 Planning and Technical Studies Program are allocated to the Metropolitan Planning Organizations (MPO's) and States. The remaining ten percent of the funds are retained in a Section 8 Special Studies Account which is used to support particularly innovative and promising planning projects in areas of national interest.

These Special Studies funds are limited and during the course of a fiscal year, there are a large number of projects worthy of consideration. For the projects which are clear winners or losers with respect to innovation and national policy consistancy, decisions are made immediately. The remaining projects are gathered, prioritized based on their merit and probability of success, and recommended for approval in a Special Studies Program Plan.

The Special Studies Program Plan is generally formulated toward the end of the fiscal year to maximize the time within which State and local governments may apply. In FY87, over three quarters of the recommended projects contained in the Special Studies Program Plan were approved before the close of the fiscal year. In addition, five projects were left pending, awaiting consideration of additional justification. In view of the need to make the best use of limited Section 8 resources, we feel this approach is preferable to approving all projects on a first come-first served basis.

STAFFORD

QUESTION 11: The 1987 highway act provides that Women Business Enterprises are eligible for the Disadvantaged Business Enterprise program. In other words, there are no longer to be separate State goals or separate contract goals for WBEs and MBEs. I understand that several States have not yet changed their programs to conform with the new Federal law. Which States have not done so, and what steps will you take to see that they do so expeditiously?

ANSWER:

Most of the States adopted a single DBE/WBE goal soon after the passage of the Surface Transportation and Uniform Relocation Assistance Act of 1987. However, about 10 States did not immediately adopt a single goal, but waited for specific guidance from the Department on implementation of this provision. FHWA issued guidance on August 26, 1987, requiring a single goal for any project authorized after October 1, 1987. All projects authorized by FHWA after October 1 have included a single goal.

In some States, there may have been a "pipeline" effect. For example, in Michigan, projects authorized prior to October 1, 1987, went to bid and were awarded with separate DBE and WBE goals after October 1, 1987.

The Department issued a final rule amending its DBE requirements on October 21, 1987, which reiterated FHWA's previous guidance that all States must have a single goal.

12. The 1987 highway act directs the Secretary of Transportation to enter into an agreement with and provide funding to the Transportation Research Board in order to undertake a study with regard to historic bridges. It was intended that funds for the study be provided by the Department of Transportation. What steps are you taking to see that these funds are provided expeditiously?

Answer: Sufficient funds ($250,000) have been requested in the Department's FY 1989 budget submission for the historic bridge study. As soon as these funds are appropriated, we will begin the study immediately.

SENATOR DURENBERGER

Question 1: It is my understanding that the former Secretary of Transportation, Elizabeth Dole, had announced her support for devolving certain highway programs back to the States. As we near completion of the Interstate system, what do you regard as key Federal components of the existing highway system?

Answer: We are looking at a number of possible options for the post-Interstate period. With completion of the Interstate System, and as we approach the 1990-91 reauthorization period, we have the opportunity to examine the future direction of the highway program. This may be the appropriate time to consider returning responsibility for the remaining highway programs to the states. Many of the current and future highway needs are local in nature and do not require Federal involvement. However, I believe the Federal government must assure that the Interstate System is properly maintained.

We have looked specifically at the possibility of a tax turnback and a revenue return, but I believe that it is premature to make a decision about legislation until the options have been fully explored. There are a number of efforts underway now, including those of our Federal Highway Administration and the American Association of State Highway and Transportation Officials. As I have already said, I am committed to supporting this effort and using the time I have to assess the options for the highway program. I look forward to working with this Committee and others in examining and developing options and in achieving a consensus on how to best meet the nation's future highway needs.

SENATOR DURENBERGER

Question 2: In light of the log-rolling and delays that seem to accompany every highway reauthorization debate, can you give me a good reason why we shouldn't give states back their highways and their taxes?

Answer: I think all of us were frustrated with the delays and problems associated with the most recent reauthorization of the highway program. We are looking at a number of possible options for the post-Interstate period. With completion of the Interstate system, and as we approach the 1990-91 reauthorization period, we have the opportunity to examine the future direction of the highway program. This may be the appropriate time to consider returning responsibility for the remaining highway programs to the states. Many of the current and future highway needs are local in nature and do not require Federal involvement.

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